

Minnesota Attorney General: Administrative Rules Proceedings

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IN THE MATTER OF THE PROPOSED RULE OF THE DEPARTMENT OF HUMAN SERVICES GOVERNING GRANTS FOR COMMUNITY-BASED MENTAL HEALTH SERVICES FOR CHILDREN WITH SEVERE EMOTIONAL DISTURBANCE AND THEIR FAMILIES, AND GOVERNING GRANTS FOR COMMUNITY SUPPORT AND CASE MANAGEMENT SERVICES FOR ADULTS WITH SERIOUS AND PERSISTENT MENTAL ILLNESS, MINNESOTA RULES, PARTS 9535.1700 TO 9535.1760

MINNESOTA DEPARTMENT OF HUMAN SERVICES

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ADMINISTRATIVE HEARINGS

STATEMENT OF NEED AND REASONABLENESS

INTRODUCTION

This proposed rule combines the Department's Emergency Rule 78 governing grants for community-based mental health services for children with severe emotional disturbance, parts 9535.1700 to 9535.1765 [Emergency], with the Department's Rule 14 governing grants for community support and case management services for adults with serious and persistent mental illness, parts 9535.0100 to 9535.1600.

BACKGROUND

In 1979, the legislature enacted the Community Social Services Act, codified in Minnesota Statutes, chapter 256E. The Act combined a number of previously separate mental health grants into one social services block grant to counties. However, mental health advocates were concerned that the needs of persons with serious and persistent mental illness would not be addressed in the block grant. In response to those concerns, the same legislation that created the Act also authorized Rule 14 grants and appropriated $1,000,000 for the first grants. The original Rule 14 (promulgated in 1980) is the same rule that is now proposed to be replaced by this proposed rule.

In 1987, the Minnesota Comprehensive Adult Mental Health Act (Minnesota Statutes, §§245.461-245.486) was enacted. With this act, Minnesota laid out an array of mental health services to be provided in all areas of the state. Along with this act, the legislature appropriated sufficient funds to expand Rule 14 from a demonstration program in 45 counties to a statewide program. The Minnesota Comprehensive Adult Mental Health Act required case management and community support services to be provided in every county by 1989.

Due to calls from children's mental health advocates for development of a comprehensive, appropriate and accessible mental health system for children, in 1989 the Minnesota

Comprehensive Children's Mental Health Act (Minnesota Statutes, §§245.487-245.4888) was enacted.

The Act mandated the phase-in of an array of mental health services for children by 1992. The key to development of this array is coordination among service agencies in the provision of services to children and families on the state and local level.

The Act also established three target children's populations eligible to receive mental health services: (1) all children (for emergency services, education and prevention, early identification and intervention); (2) children with emotional disturbance (for outpatient services, acute care hospital services, and residential treatment services); and (3) children with severe emotional disturbance (for screening, professional home-based family treatment, case management, family community support services, day treatment, and therapeutic support of foster care). It is the latter group of children that this proposed rule focuses on.

The Department received the first biennial plans for children's mental health services from counties for FY 1990-91; first funding for services was awarded in February 1991 to 52 counties for the 15 month period from April 1, 1991 to June 30, 1992 (the end of FY 1992). The second round of funding was awarded in March 1992 to 86 counties (one county did not apply) for the 15 month period from April 1, 1992 to June 30, 1993 (the end of FY 1993).

Combined Rulemaking Process

Because Emergency Rule 78 and the proposed updates to Rule 14 both establish standards for the receipt and distribution of state grants to counties for mental health services, in January, 1992 the Department decided to combine the rules for this rulemaking procedure. Thereafter, a Notice of Solicitation of Outside Information or Opinions was published on February 3, 1992 at 16 *State Register* 1828.

The proposed combined rule language establishes standards for the receipt and distribution of state grants to assist counties to establish, operate, or contract for the delivery of both community-based mental health services to children with severe emotional disturbance and their families and community support and case management services for adults with serious and persistent mental illness. The combined rule will: require that counties receive the commissioner's approval of grant applications; define criteria for grant approval; define criteria for the use of grant funds; require that applications describe how the county board is collaborating or will collaborate in the development, funding and delivery of services

with other agencies; define criteria for grant distribution; define budget requirements; specify requirements for fiscal reporting; specify grant payments to county boards; allow the commissioner to terminate all or part of the grant funds and require repayment; allow the commissioner to reallocate returned or unused grant funds; and require counties and contracting service providers to maintain financial and client service records.

The proposed combined rule was developed in consultation with an Advisory Committee, which met on February 24, 1992. Members of the Advisory Committee included: county representatives, the Minnesota Association of Community Mental Health Programs, the Wilder Foundation, advocates and the Department. Invitations had also been sent to: the Mental Health Law Project, the Mental Health Association, the State Advisory Council on Mental Health, the National Association of Social Workers, the Minnesota Nurses Association, Minneapolis Family & Children's Services and ARC Minnesota. The proposed rule incorporates the committee members' suggestions.

A brief history and statutory authority of each rule follows.

Emergency Rule 78

In 1991, in Minnesota Statutes, §245.4886, subdivision 1 (Laws of Minnesota 1991, chapter 292, article 6, section 26), the legislature directed the Department to "establish a statewide program to assist counties in providing services to children with severe emotional disturbance . . . and their families." This program, consisting of state grants to counties for community-based mental health services for children with severe emotional disturbance and their families, is authorized by Minnesota Statutes, §245.4886, subdivision 2, which provided for emergency rulemaking authority.

Emergency Rule 78 governing children's community-based mental health services was published at 16 *State Register* 1591, and on December 27, 1991 it became effective. Part of this proposed combined rule converts this emergency rule into permanent rule language.

On January 13, 1992 at 16 *State Register* 1689, a Notice of Solicitation of Outside Information or Opinions was published. In February, a Rule Advisory Committee met; this was discussed in the section entitled "Combined Rulemaking Process," above.

Language regarding community-based mental health services for children and their families is specifically authorized by Minnesota Statutes, §245.4886, subdivision 2, which provides permanent rulemaking authority to the Department. Other

relevant statutes are: Minnesota Statutes, §245.484 (the commissioner shall adopt permanent rules as necessary to carry out sections . . . 245.487 to 245.4888); Minnesota Statutes, §245.487, subdivision 4 (the commissioner shall . . . fully implement sections 245.487 to 245.4888 by July 1, 1993); Minnesota Statutes, §245.4873, subdivision 5 (the commissioner shall supervise the development and coordination of locally available children's mental health services by county boards); Minnesota Statutes, §245.4874, clause (1) (county boards must develop a system of locally available and affordable children's mental health services); and Minnesota Statutes, §245.4875, subdivision 7 (county boards shall perform other acts necessary to carry out the Minnesota Comprehensive Children's Mental Health Act).

Proposed New Rule 14

Minnesota Statutes, §256E.12, subdivision 1 requires the commissioner to "establish a statewide program to assist counties in providing services to persons with serious and persistent mental illness . . . ." This law directs the commissioner to:

> make grants to counties to establish, operate, or contract with private providers to provide services designed to help persons with serious and persistent mental illness remain and function in their own communities.

Minnesota Statutes, §256E.12, subdivision 3 authorizes the commissioner to promulgate rules to establish standards for the receipt and distribution of state grants to assist counties to establish, operate, or contract for the delivery of community support and case management services for persons with serious and persistent mental illness.

On May 6, 1991 at 15 *State Register* 2413, a Notice of Solicitation of Outside Information or Opinions was published. Thereafter, the Department established a Rule 14 Advisory Committee and held committee meetings. Proposed language was developed in consultation with this committee, which contained representatives from counties, the Mental Health Law Project, the Mental Health Association, the State Advisory Council on Mental Health, other advocates and the Department. The proposed language incorporated their suggestions.

The proposed language considered by the Advisory Committee was to have replaced current Rule 14, parts 9535.0100 to 9535.1600 (Community Support Services for Chronically Mentally Ill Persons). The current combined rulemaking process likewise repeals these rule parts and replaces them with parts 9535.1700

to 9535.1760 as they apply to adult community support and case management services.

Rule 14 is specifically authorized by Minnesota Statutes, §256E.12, subdivision 3, which provides rulemaking authority to the Department. Other relevant statutes are: Minnesota Statutes, §245.462, subdivision 6 (requires community support services programs to be coordinated with case management services); Minnesota Statutes, §245.463, subdivision 2 (requires the commissioner to provide ongoing technical assistance to counties to develop the adult mental health component of the community social services plan); Minnesota Statutes, §245.464, subdivision 1 (requires the commissioner to supervise the "development and coordination of locally available adult mental health services" by county boards); Minnesota Statutes, §245.465, subdivision 1, clause (1) (requires county boards to "develop and coordinate a system of affordable and locally available adult mental health services" in accordance with the Minnesota Comprehensive Adult Mental Health Act) and clause (3) (requires county boards to provide case management services to adults with serious and persistent mental illness); Minnesota Statutes, §245.466, subdivision 6 (requires county boards to "perform other acts necessary to carry out" the Minnesota Comprehensive Adult Mental Health Act); Minnesota Statutes, §245.4711, subdivision 1 (county boards must provide case management services); and Minnesota Statutes, §245.4712, subdivision 1 (county boards must provide or contract for "sufficient community support services within the county to meet the needs of adults with serious and persistent mental illness . . . .").

Besides Minnesota Statutes, §256E.12, subdivision 3, rulemaking authority is found in Minnesota Statutes, §245.484.

Because the Department combined proposed new Rule 14 with proposed permanent Rule 78, the Department did not publish a Notice of Intent to Adopt for Rule 14. Combining the language of Rule 14 with Rule 78 created new numbering and different language, and so in February, 1992 the past members of the Rule 14 Advisory Committee (who were made a part of the combined Rule Advisory Committee) reviewed new language. This combined proposed rule fully takes into account the ideas and suggestions of the Combined Rule Advisory Committee.

SPECIFIC RULE PROVISIONS

The above-entitled rule is affirmatively presented by the Department in the following narrative in accordance with the provisions of the Minnesota Administrative Procedure Act, Minnesota Statutes, chapter 14 and the rules of the Attorney General's Office.

9535.1700 PURPOSE.

Particularly as this is the first time rules concerning mental health service grants for children and their families and for adults have been combined, it is necessary to provide context for affected persons governing the content of this rule. It is reasonable to state the general purpose of this rule; that is, that it establishes standards for the receipt and distribution of state grants both for children's community-based mental health services and for adult community support and case management services.

This language says in a nutshell what the language in current Rule 14, part 9535.0300 says in protracted fashion.

9535.1705 DEFINITIONS.

Subpart 1. Scope.

It is necessary and reasonable to state that the terms used throughout the rule are defined in Minnesota Statutes, §§245.462 and 245.4871, so that there is no need to restate definitions in rule. However, for the specific terms that are not statutorily defined or that need precise clarification in rule, it is reasonable to define them in subparts 2 through 4.

Subpart 2. Children's community-based mental health services.

It is necessary to define this term as it is used throughout the rule to explain what type of state grants part of this rule governs. It is reasonable to use the language of Minnesota Statutes, §246.4886, subdivision 1: "The commissioner shall establish a statewide program to assist counties in providing **services to children with severe emotional disturbance** . . . and their families." (emphasis added). The statute then lists the types of services:

- family community support services;
- case management services;
- day treatment services;
- professional home-based family treatment; and
- therapeutic support of foster care.

Subpart 3. County funds.

It is necessary to define this term as it is used in part 9535.1735, subpart 1. The definition used is reasonable because the funds specified in the definition are those that are available only to the county (county levies) or passed through

to the county from other sources (block grants, family preservation grants, or state revenues distributed in lieu of property taxes or other revenue sharing).

Subpart 4. Grant period.

This definition is necessary as the term is used in parts 9535.1725 and 9535.1740, subpart 3. The application form provided by the Department specifies the grant period covered by the application; thus, the application submitted by a county board is for a specific grant period identified by the commissioner. Therefore, the definition is reasonable as it is consistent with the Department's practice and the information provided to county boards.

9535.1710 ELIGIBILITY TO RECEIVE GRANT

This part is necessary to comply with Minnesota Statutes, §§245.4886, subdivision 2 and 256E.12, subdivision 2. It is reasonable to provide that only county boards that submit and receive the commissioner's approval for the grant application may receive grants to provide mental health services because both Minnesota Statutes, §§245.4886 and 256E.12 state that the "commissioner shall make grants only to counties whose applications and budgets are approved by the commissioner."

9535.1715 GRANT APPLICATION.

Subpart 1. Application for grants.

This subpart requires counties, whether singly or as part of a joint effort, to submit to the commissioner a grant application, including budget information, in the manner prescribed and on forms provided by the commissioner. This language is taken from current Rule 14, part 9535.0800, subpart 2 and is necessary and reasonable to comply with Minnesota Statutes, §§245.4886, subdivision 2 and 256E.12, subdivision 2, which state that "[T]o apply for a grant a county board shall submit an application and budget for the use of the money in the form specified by the commissioner."

It is necessary and reasonable to provide that two or more counties may act together to submit an application because state law encourages joint county efforts. Minnesota Statutes, §§245.464, subdivision 1 and 245.4873, subdivision 5 state that the commissioner "shall supervise the development and coordination of locally available" adult and children's mental health services by county boards. Minnesota Statutes, §245.4873, subdivision 5 continues by stating that the "commissioner shall provide technical assistance to county

boards in developing and maintaining locally available and coordinated children's mental health services." Minnesota Statutes, §245.465, subdivision 1, clause (1) requires county boards to "develop and coordinate a system of affordable and locally available adult mental health services." Minnesota Statutes, §§245.466, subdivision 4 and 245.4875, subdivision 4 provide that "counties are encouraged to . . . enter into multicounty mental health agreements." Finally, Minnesota Statutes, §256E.08, subdivision 1 provides that, in regards to community social services, a county board or "in combination with other county boards" shall prepare a social services plan, a potential source of funding for children's community-based mental health services (see Minnesota Statutes, §256E.03, subdivision 2, paragraph (a), clause (5)) (emphasis added throughout).

This subpart also requires that beginning with calendar years 1994 and 1995, the grant application must be a part of the county board's biennial community social services plan. This is necessary because the Department is simplifying procedures, including community social services plans, whenever possible, in order to comply with Minnesota Statutes, section 256E.05, subdivision 1a (authorizes the commissioner to review social services administrative rule requirements and adopt amendments by eliminating unnecessary or excessive paperwork and simplifying or consolidating program requirements). For example, the Department has been awarding grants for community-based mental health services for children with severe emotional disturbance on a fiscal year basis, but because this rule combines two types of mental health grants, it is administratively easier for both the state and counties to award grants based on the timelines of a county's community social services planning process, a biennial activity.

It is necessary to exclude grant applications for special projects from a county's biennial community social services plan because special projects are typically funded for only one year on a fiscal year basis, dependent on what the legislature mandates. Other agencies or organizations may also require that special projects are funded on a fiscal year basis. Therefore, it is reasonable to exclude special projects from subpart 1.

Subpart 2. County board signature or copy of approving resolution.

Subpart 2 requires that a grant application must be either signed by the chair of the county board or accompanied by a copy of the county board's resolution. If two or more county boards apply for a state grant, the chair of each board must either sign the application or submit a copy of their respective county board's resolution. This language is lifted from current Rule 14, part 9535.0800, subpart 3.

This language is necessary to clarify the evidence required to assure that the grant application submitted to the commissioner has the approval of the county board(s). A copy of the county board's approving the submission resolution is reasonable evidence because it shows the vote of the county board's commissioners; further, submitting a copy of the resolution is the current practice of many county boards. Certainly, the signature of the chair of the county board is also reasonable evidence because the chair is authorized to carry out such functions on behalf of the board.

Requiring the chairs of each of the county boards making a joint application to provide evidence of approval is reasonable because it ensures that each county board has authorized the joint application and approved its contents.

9535.1720 FUNDING CRITERIA.

This part contains the criteria for a grant application. Grant applications are necessary pursuant to Minnesota Statutes, §§245.4886, subdivision 2 and 256E.12, subdivision 2, which provide that in order to apply for a grant, the "county board shall submit an application and budget . . . in the form specified by the commissioner." Further, both statutes authorize the commissioner to adopt permanent rules to govern approval of applications and allocation of grants.

Item A. It is reasonable that the county's grant application be consistent with the respective mental health component of its community social services plan approved by the commissioner because the mental health component of the county's social services plan specifies how the county board will meet its statutory obligations to provide mental health services. Furthermore, this requirement is reasonable as the county's social services plan has been reviewed and determined by the commissioner to meet the requirements of the Minnesota Comprehensive Adult Mental Health Act or the Minnesota Comprehensive Children's Mental Health Act. See Minnesota Statutes, §§245.478, subdivision 3 and 245.4888, subdivision 1.

Item B. It is reasonable to require that the grant application describe how the county board is collaborating or will collaborate in the development, funding, and delivery of children's community-based mental health services with other agencies in the local system of care in order to comply with Minnesota Statutes, §245.4886, subdivision 2. Also, Minnesota Statutes, §245.4874, clause (5) states that the county board must

coordinate the delivery of children's mental health services with services provided by social services, education, corrections, health, and vocational agencies to improve the availability of mental health services to children. . . ."

Item C. This item requires that the grant application must comply with the rest of the rule and with Minnesota Statutes, §§245.461 to 245.4888. This is necessary to set a standard for receiving the commissioner's approval of the grant application. Requiring compliance with applicable law and rules is reasonable because these laws and rules are the established standards, and affected persons have had the opportunity to become knowledgeable regarding the standards. Additionally, the use of standards assures equitable treatment of all county boards applying for state grants.

Item D. Subitem (1).

It is necessary and reasonable to require that in the grant application, the county board agree that it considered what Minnesota Statutes, §§245.466, subdivision 5 and 245.4875, subdivision 5, paragraph (c) require; that it consider the advice of its local children's or adult mental health advisory council or the children's or adult mental health subcommittee of the existing local mental health advisory council "in carrying out its authorities and responsibilities."

Item D. Subitem (2).

This is necessary and reasonable for the same reasons as in subitem (1). Further, it was recommended by a member of the Emergency Rule 78 Advisory Committee, and is reasonable to ensure that in grant applications, the county board will consider the advice of the specific mental health advisory council or mental health subcommittee of the existing mental health advisory council if the grant application is amended.

Item D. Subitem (3).

This is necessary to incorporate the recommendation of a member of the Emergency Rule 78 Advisory Committee. Pursuant to Minnesota Statutes, §§245.462, subdivision 12 and 245.4871, subdivision 19, individual (family) community support plans are written plans identifying specific services needed by the client that are developed by case managers and the client and (in the case of children with severe emotional disturbance) by case managers, the family, and the child. Therefore, it is reasonable that grant applications indicate that counties will provide the needed services identified in the client's community support plan.

Item D. Subitem (4).

It is necessary to require that the funding sources identified in units (a) to (g) be used to pay for mental health services instead of grant funds when these funds are available in order to comply with Minnesota Statutes, §§245.466, subdivision 1 and 245.4875, subdivision 1, which state that county boards are responsible for using "all available resources" to provide mental health services.

Unit (a). This is necessary and reasonable to comply with Minnesota Statutes, §§245.4711, subdivision 1, paragraph (b) (case management services for adults with serious and persistent mental illness eligible for medical assistance must be billed under §256B.0625); 245.4886, subdivision 1 (the commissioner shall make grants to counties to provide children's community-based mental health services when "these cannot be reimbursed under section 256B.0625"); and 256E.12, subdivision 1 (grants received may be used to fund community support and case management services "that cannot be billed to the medical assistance program under . . . . 256B.0625").

Unit (b). This is necessary and reasonable to comply with Minnesota Statutes, §§245.466, subdivision 1 and 245.4875, subdivision 1, which require that county boards are responsible for using "all available resources" to provide mental health services.

Unit (c). This is necessary and reasonable for the same reasons as unit (b).

Unit (d). This is necessary and reasonable for the same reasons as unit (b).

Unit (e). This is necessary and reasonable for the same reasons as unit (b).

Unit (f). This is necessary and reasonable for the same reasons as unit (b).

Unit (g). This is necessary to comply with Minnesota Statutes, §§245.466, subdivision 1 and 245.4875, subdivision 1, discussed above. It is possible that units (a) to (f) do not cover all the possible *available* resources; therefore, it reasonable to list "other funds" here to catch those not already listed. Examples of "other funds" for adult community support and case management services include private contributions and federal money. See Minnesota Statutes, §256E.12, subdivision 2.

Item D. Subitem (5).

It is necessary and reasonable to require county boards to agree that the cost per unit of service will be comparable to the cost of similar services in the same or similar local trade area in order to conserve public (i.e., state) funds and to maximize public funds' availability to pay for services which are not reimbursable through other funds.

Item E. Subitems (1) and (2).

It is necessary and reasonable that the grant application state that grant funds will be used for the services specified in Minnesota Statutes, §§245.4886 and 256E.12 in order to comply with these statutes, which mandate certain mental health services.

Item E. Subitem (3). Grant funds may also be used for other mental health services, necessary because these are services the commissioner determines essential. Examples of such "other services" are: diagnostic assessment; functional assessments; medication management; psychological diagnosis; and transportation. It is reasonable that grant funds also provide for these services (but only if the resources listed in item D, subitem (4) cannot be tapped) because such services are essential to helping the client remain and function in the community. This subitem is taken from current Rule 14, part 9535.0900, subpart 3.

The last paragraph of this subitem is necessary in order to ensure that counties receive grants if the commissioner determines that a grant application merits funding but does not meet the criteria of this rule. Requiring the commissioner to point out what needs to be corrected in the grant application under such circumstances is a reasonable method of ensuring that needed and available grants are distributed to counties.

9535.1725 DISTRIBUTION FORMULA.

This rule part governs the formulas that will be used to distribute state grants for mental health services. The authority for the following items is Minnesota Statutes, §§245.4886, subdivision 2 and 256E.12, subdivision 3, which permit the commissioner to adopt permanent rules to govern "allocation of grants."

The following items are necessary to provide a minimum baseline and a uniform method for the statewide distribution of funds.

Item A. It is necessary to require that state grants are distributed "within the limits of the appropriations under

Minnesota Statutes, section 245.4886 or 256E.12" in order to comply with Minnesota Statutes, §§245.486, which provides that nothing in either the Minnesota Comprehensive Adult Mental Health Act or the Minnesota Comprehensive Children's Mental Health Act "shall be construed to require the commissioner or county boards to fund services beyond the limits of legislative appropriations."

The formulas in item A are reasonable because they allow the commissioner to consider three possible funding methods so that the commissioner can choose that which will grant a county the greatest amount of state dollars. Subitem (1) provides for funding at previous levels (plus a cost of living increase if appropriated by the legislature) to maintain existing projects without considering a county's demographics or service needs; subitem (2) is a method to provide minimum mandated services for small counties; and subitem (3) provides an equitable method of allocating funds according to a county's population. It is reasonable to require the per capita amount be based on the population as determined by the state demographer because the demographer has the responsibility of keeping county population data current and accurate.

As already discussed, current Rule 14 began as a demonstration program in 1980. Over the years with increasing county budgets the program was expanded. When the Minnesota Comprehensive Adult Mental Health Act was enacted in 1987, included was a requirement that by the beginning of FY 1989 all counties had to provide a Community Support Service Program (CSP).

Appropriations were funded for the twelve month period beginning in FY 1989. Based on the appropriations, the original formula for CSP grants was set at $1.00 per capita (per county allocation) with a minimum of $25,000 annually per county. The $25,000 minimum was chosen because it funded at least one position per county. For FY 1990, the formula was increased to $1.65 per capita or a minimum of $41,000 annually per county. This $41,000 figure is reflected in subitem (2). Those counties that were a part of the original demonstration program that were above the allocation minimum maintained funding at the previous year's amount, reflected in subitem (1).

For this proposed combined rule, the current practice of having the Rule 14 formula based on total county population is changed to be based on the county adult population. In order to accommodate this change and still allocate at least the same amount of funds, the per capita amount in subitem (3) is increased to $2.10. If this change should result in a lower per capita allocation for any county, subitem (1) ensures that no county will receive less than its current allocation.

In developing formulas for distribution of grants for children's community-based mental health services (Emergency Rule 78), the same general approach was taken: The allocation formula was based on a per capita approach with a minimum per county. The Rule 78 rates for the per capita amount in subitem (3) of $2.25 are higher than those for Rule 14 because there are fewer children under 18 years of age than adults. The $22,000 minimum in subitem (2) is based on the amount of legislative appropriations and is the amount that can fund most of one position in the smaller counties.

Item B. It is necessary to clarify that the state grants distributed under item A, subitem (1) do not include the special project funds of part 9535.1730 because special project funds are distributed for special needs which may not apply to all counties. Therefore, it is reasonable to exclude special project funds from grant fund allocation formulas that apply to all counties receiving annual appropriations.

However, in some cases it is necessary and reasonable to include a special project grant in the formula allocation. Normally, this would occur as a special project moves out of a pilot or demonstration phase into on-going service provision. In such a case, if the commissioner determines the special project is best funded as part of the general allocation for mental health services, the special project grant will be included in the formula allocation and will increase a county's base for all future allocations. Granting the commissioner the authority to determine when a special project is best funded as part of the allocation for mental health services is reasonable because the legislature has authorized the commissioner to approve and award grants pursuant to Minnesota Statutes, §§245.4886, subdivision 2 and 256E.12.

Item C. It is necessary to clarify that if the appropriations for mental health services are increased, the amounts in item A, subitems (2) and (3) shall be increased. In other words, if the commissioner receives an additional appropriation from the legislature, the commissioner must increase the formulas in subitems (2) and (3). This is a reasonable method of providing additional mental health services.

Item D. Likewise, it makes sense that if the appropriations for mental health services are decreased, then the allocations in item A shall be decreased in the same proportion as the appropriations decrease, thus ensuring a constant ratio distribution of state grant funds.

Item E. This item is reasonable because it assures that, if the legislative appropriations remain the same as last year's appropriations, no county loses funds nor incurs a possible reduction in mental health services. To ensure that no count

loses funds nor incurs a possible reduction in mental health services, it is necessary to add that the county allocations must not be adjusted to reflect any new population data of the state demographer.

Item F. Item F is necessary to allow flexibility for cooperating counties to divvy up grant funds to best meet the needs of the multicounty region. This item is consistent with the Department's intent to allow counties freedom to decide how best to meet the "outcome" stated in Minnesota Statutes, §§245.4886 and 256E.12 to have clients function and remain in their communities. It is reasonable, then, to allow grants to be dispersed among cooperating counties as counties best see fit, as long as the counties demonstrate to the commissioner that the differences are based on the different service needs of each county.

9535.1730 FUNDING SPECIAL PROJECTS.

This part is necessary to provide a means for distributing state appropriations for special projects. This part allows county boards to apply to the commissioner for grants appropriated for special projects, which must provide at least one of the statutorily mandated mental health services (see the definition of children's community-based mental health services in Minnesota Statutes, §246.4886, subdivision 1 and the definitions of case management services and community support services in Minnesota Statutes, §245.462, subdivisions 3 and 6) unless the legislature enacts appropriations for a "different service."

It is reasonable to allow appropriations to be used for projects, events, or circumstances that may not have been anticipated in long range county plans because the funding is intended to provide county boards with flexibility to respond to an emergency or emerging social or economic issue that affects the ability of adults with serious and persistent mental illness to remain and function in the community, or affects the ability of children with severe emotional disturbance to remain and function with their families in the community.

Examples of special projects are:

- housing support services for adults with serious and persistent mental illness
- assistance in transition from homelessness
- mental health crisis services for adults and children

- coordinated employability services for persons with serious and persistent mental illness

Stating that special project grants must be "within the limits of appropriations available" is necessary and reasonable for the reasons covered in part 9535.1725, item A on pages 12 - 13.

9535.1735 BUDGET REQUIREMENTS.

This part is necessary to inform affected persons of the required budget information that is included as part of the grant application.

Subpart 1. Estimated budget required.

This subpart requires county boards applying for mental health services grants to submit to the commissioner a grant application that includes budget information. It is necessary to include budget information because such information allows the commissioner to make an informed decision regarding grant awards.

County boards may contract with providers to provide mental health services. Minnesota Statutes, §§246.4886, subdivision 1 and 256E.12, subdivision 1 authorize the commissioner to make grants to counties to "establish, operate, or contract with private providers" to provide mental health services. Additionally, Minnesota Statutes, §§245.466, subdivision 1 and 245.4875, subdivision 1 allow counties to contract "with other individuals or agencies." Therefore, it is necessary to place in this rule language covering instances of contracting or subcontracting service providers.

Items A to J are necessary to provide documentation to the commissioner that the county board considered all possible sources of projected revenue for mental health services when budgeting for mental health services. See Minnesota Statutes, §§245.466, subdivision 1 and 245.4875, subdivision 1, discussed at part 9535.1720, item D, subitem (4). It is reasonable that a county board consider sources of funding both from the state and from other sources in order to submit to the commissioner an accurate grant application.

Items A, C to F and I - J have been discussed at part 9535.1720, item D, subitem (4) on page 11. It is reasonable for the same reasons discussed there to require a county board to also consider the projected revenue it will receive from county funds (item B) (defined in part 9535.1705, subpart 4 as funds available through county levies, state block grants, federal block grants, family preservation grants, and state revenues distributed in lieu of property taxes or other revenue sharing).

Item G. County agencies may also provide funding for services by way of a local system of care, which is defined at Minnesota Statutes, §245.4871, subdivision 24 as the following locally available services: mental health, social services, correctional services, education services, health services, and vocational services. Further, Minnesota Statutes, §245.4874, clause (5) requires that county boards

> coordinate the delivery of children's mental health services with services provided by social services, education, corrections, health, and vocational agencies....

Minnesota Statutes, §245.465, subdivision 1, clause (1) requires county boards to "develop and coordinate a system of affordable and locally available adult mental health services," and Minnesota Statutes, §245.464, subdivision 1 requires the commissioner to "supervise the development and coordination of locally available adult mental health services by the county boards . . . ." (emphasis added). Therefore, requiring county boards to look at projected revenue from "other public agencies" is necessary to comply with state law.

Item H. Item H is necessary because Minnesota Statutes, §§245.466, subdivision 1 and 245.4875, subdivision 1 require that county boards are responsible for using "all available resources" to provide mental health services. It is possible that items A to G do not cover all the possible available resources; therefore, it is reasonable to add "other sources" to catch those not already listed.

Subpart 2. Submittal of contracting service provider budgets.

As discussed in subpart 1, a county board may contract with private providers to provide mental health services and is authorized by law to do so. Requiring a county board to submit to the commissioner specific information on the county board's contracting, or subcontracting, service provider's budget is a reasonable method of assuring the commissioner that the use of state grants complies with the purpose authorized by the legislature and administered by this rule.

Subpart 3. Provider contracts and subcontracts.

This subpart requires that all contracts for mental health services between a county board and a service provider, or all contracts between a contracting service provider and a subcontracting service provider, be in accordance with the requirements of this rule and the Department's rule governing the administration of community social services, informally known as Rule 160.

Rule 160's administration of community social services includes mental health services. It provides detail for grants and purchase of service contracts between counties and service providers, including subcontractors. A cite to Rule 160 is necessary so that the same requirements apply to all county boards when contracting with service providers for community social services. Incorporating the requirements of Rule 160 is reasonable as it enables the commissioner to uniformly follow the requirement in Minnesota Statutes, §§245.4886, subdivision 2 and 256E.12, subdivision 3 to review data and require periodic reports as necessary.

It is reasonable to simply cite to Rule 160 rather than repeat its provisions for administrative efficiency. Additionally, this subpart ensures that the line of responsibility for service delivery is maintained between county boards and service providers.

Subpart 4. Joint applications.

Subpart 4 provides that when two or more county boards apply jointly for grants for mental health services, they must designate which county board will act as the host county to receive the grant and must designate a contact person.

The Statement of Need and Reasonableness for part 9535.1715, subpart 1 on pages 7 - 8 discusses in detail the statutory language that encourages two or more counties to apply jointly for state grants.

It is necessary that county boards applying jointly have an agreement designating which county is to receive the state grant for ease in administration, and necessary that county boards applying jointly designate a county contact person should questions arise. It is reasonable to place these requirements in rule so that affected persons have advance knowledge of these requirements.

Subpart 5. Matching funds required for grants for adult community support and case management services.

This subpart is taken from current Rule 14, part 9535.1100 and is necessary to comply with Minnesota Statutes, §256E.12, subdivision 2, which requires that counties

> receiving a grant under this section shall finance at least ten percent of the cost of services for persons with serious and persistent mental illness from local resources, which may include private contributions and federal money.

It is reasonable to define "matching funds of at least ten percent" as "revenue from the sources listed in subpart 1, items B to H" because Minnesota Statutes, §§245.466, subdivision 1 and 245.4875, subdivision 1 require that county boards use "all available resources" to provide mental health services. This definition of "matching funds" is also reasonable because it expressly includes private contributions and federal money, as specified in Minnesota Statutes, §256E.12, subdivision 2.

9535.1740 PAYMENT TO COUNTY BOARD.

Subpart 1. Fiscal reports.

This subpart is necessary to comply with Minnesota Statutes, §§245.482, subdivision 1 and 245.4886, subdivision 2, and reasonable to use their language: "The commissioner shall specify requirements for reports, including quarterly fiscal reports, according to section 256.01, subdivision 2, paragraph (17)." Additionally, Minnesota Statutes, §245.482, subdivision 2 requires the commissioner to "develop a unified format for quarterly fiscal reports that will include information the commissioner determines necessary . . . ." and requires county boards to submit to the commissioner completed fiscal reports.

It is reasonable that if the state, through the commissioner, distributes state grants for mental health services, then reports are necessary in order to make sure that state funding is appropriately used.

This subpart also requires that the county board submit, by service provider, a year-end summary of the total expenditures and total revenues by revenue sources if the commissioner requests such data. This provision is necessary to assist the commissioner in obtaining a more complete understanding of service provider and county board finances. Service providers may receive reimbursement from private insurance, third party payors, or medical assistance in addition to grant monies pursuant to this combined rule. Requiring information on year-end total expenditures and total revenues, upon request by the commissioner, is a reasonable means of ensuring appropriate use of state monies. Requiring such information only upon the request of the commissioner is reasonable as it avoids placing an undue burden on all service providers.

Subpart 2. Grant payments.

This subpart is necessary to inform affected persons of when grant payments will be disbursed. It is reasonable to require the commissioner to make quarterly grant payments and require the commissioner to make an initial advance in an amount sufficient to cover the period between the beginning of the

grant period and the next scheduled payment because counties need operating monies and the commissioner may then monitor ongoing expenditures in a timely and orderly manner.

Minnesota Statutes, §245.482, subdivision 2 requires county boards to submit quarterly fiscal reports. Therefore, it is reasonable that the commissioner make subsequent quarterly grant payments on a reimbursement basis for actual expenditures as this method assures the state grant is used to purchase the approved mental health services and provides the commissioner a way to monitor the county board's implementation of its approved state grant application and budget.

This subpart is also necessary to clarify that total payments to county boards will not be more than the lesser of the following, made according to an approved budget: (1) the grant award; or (2) 90% of the actual expenditures under Minnesota Statutes, §256E.12 (for adults with serious and persistent mental illness); or (3) 100% of the actual expenditures under Minnesota Statutes, §245.4886 (for children with severe emotional disturbance). It is reasonable to use the wording and intent of Minnesota Statutes, §256E.12, subdivision 3, which authorizes the commissioner to allocate grants "to finance up to 90 percent of each county's costs . . . ," and Minnesota Statutes, §245.4886, which implicitly authorizes a payment for 100% of actual expenditures.

However, there are situations where county boards submit expenditure reports for more than the grant award. In this instance, total payment may not exceed the grant award. For example, a county board may receive a grant for $41,000 to provide adult community support and case management services. Assuming the county contributes $8,200 in other resources, the total budget is $49,200. If this county spends $49,200 for mental health services and submits an expenditure report of $49,200, it is necessary that the state allow payment of only the *grant award* ($41,000), <u>not</u> 90% of actual expenditures, which in this instance would be $44,280.

Subpart 3. Disposition of additional income.

This subpart is necessary to clarify what county boards must do if revenue is received which exceeds the amount of revenue estimated in their approved budgets. The clarification provided is reasonable to prevent duplicate payment for services funded by this proposed rule.

The combined rule allows county boards the flexibility to choose which one of the three items to follow. It is reasonable to allow counties a choice because they are in the best position to know the mental health services needs of county residents.

Item A. Item A allows county boards to use the additional income to provide more mental health services within the grant period. This is reasonable because counties may decide that such additional services are needed.

Item B. Item B allows county boards to use the additional income in place of the county board funds committed to mental health services, if a county board's total mental health expenditure, after the reduction in county funds, complies with the maintenance of effort provisions in Minnesota Statutes, §245.48. This is reasonable because it encourages the provider to operate in a cost effective and efficient manner and to seek out all funding sources, thereby maximizing the use of county funds for services without other funding sources.

Item C. This item requires the county board to annually notify the commissioner regarding the excess revenue and request the commissioner to authorize the transfer of some or all of these additional funds to the next grant period. If so, the commissioner shall either authorize the transfer or adjust the subsequent grant award by an amount equal to the excess revenue.

This is reasonable because it recognizes the transfer or carry over of the excess funds to another grant period, permits expenditures to be made in an orderly manner, avoids a possible scenario of "spend rather than lose," and encourages county boards to look for all possible funding sources.

9535.1745 TERMINATION AND REPAYMENT OF FUNDS.

This part is necessary and reasonable to comply with Minnesota Statutes, §245.483, subdivision 1, which states that if the commissioner finds that a county is not meeting the requirements of Minnesota Statutes, §§245.461 to 245.4888 (upon which this rule is based), "all or part of the mental health and community social service act funds may be terminated upon 30 days notice to the county board." Minnesota Statutes, §245.483, subdivision 1 further provides that the commissioner may require repayment of any funds not used according to the county's approved grant application.

It is also reasonable to require consistency in termination and/or repayment of state grants from one county to another.

9535.1750 REALLOCATION OF GRANT FUNDS.

This part taken from current Rule 14, part 9535.0700, subpart 3, is necessary to comply with Minnesota Statutes, §245.483, subdivision 2, which allows the commissioner to "reallocate the funds returned." It is reasonable to alert counties that

returned or unused grant funds for mental health services may be reallocated by the commissioner to "other eligible county boards as a supplemental allocation . . . or for special projects," so that county boards know that state grants not being used as specified in the approved grant application may be routed to other counties. This helps ensure, to the extent it is possible, that the full appropriation of funds enacted by the legislature is used to provide needed mental health services.

Using reallocated funds for special projects is reasonable as it assists a county board to meet emergencies or new issues that were not present when its application was approved by the commissioner. Using the funds for special projects will not affect the county's ongoing service costs.

It is necessary to define "unused grant funds" to clarify that these funds are either grant funds not awarded by the commissioner to a county board or grant funds awarded but not used by a county board. This is consistent with departmental use of the term in current Rule 14, part 9535.0700, subpart 3.

9535.1755 BUDGET AMENDMENTS.

This part requires that county boards amending the budget approved by the commissioner follow the procedures laid out in Minnesota Statutes, §§245.478, subdivision 9 or 245.4888, subdivision 9 for amending the adult or children's mental health component of a county's community social services plan.

It is necessary that some means be provided in rule to allow for unforseen changes in a county's mental health service needs (resulting in the need for an amended component of the community social services plan), and it is reasonable to provide criteria for obtaining approval of budget amendments in order to prevent arbitrary decisions regarding approval or disapproval.

Requiring the county board to demonstrate a need to change services based on an assessment of unmet needs of children with severe emotional disturbance and their families, or adults with serious and persistent mental illness, is reasonable because it is consistent with the purpose of state grants for mental health services: To assist counties in providing mental health services to children with severe emotional disturbance and their families, and to adults with serious and persistent mental illness. See Minnesota Statutes, §§245.4886, subdivision 1 and 256E.12, subdivision 1.

In addition, Minnesota Statutes, §256E.081 is referenced because it includes additional clarification regarding statutorily mandated services and county maintenance of effort requirements. These requirements may affect budget amendment decisions and

therefore must be considered as part of any budget amendment in order to ensure compliance with state law.

9535.1760 RECORDS.

Subpart 1. Maintenance of financial records.

This subpart is taken from current Rule 14, part 9535.1200 and is necessary to comply with Minnesota Statutes, §§246.4886, subdivision 2 and 256E.12, subdivision 3, which authorize the commissioner to adopt rules to govern maintenance of financial statements by grant recipients.

Item A. This item is reasonable as it allows the commissioner the opportunity to review whether state grants for mental health services are being used for the purposes stated in the approved grant application. Comparing expenditures for these services to the county board's approved budget allows the commissioner to assess whether the intent of Minnesota Statutes, §§245.4886 and 256E.12 to provide mental health services is being met.

Item B. It is reasonable that records from all sources of income are readily identifiable so that county boards comply with part 9535.1735, subpart 1 (a county board's budget must show the total projected revenue from available sources).

Item C. It is reasonable that all expenditures are documented, as this is the customary method of maintaining financial statements. Documents can then be produced should the commissioner have a question or concern.

Subpart 2. Maintenance of service records and required reporting.

This subpart takes its language from current Rule 14, part 9535.1400, subpart 2, which requires county boards and all contracting or subcontracting service providers to maintain data specified by the commissioner on the mental health services funded, in order that the commissioner may determine the effectiveness of the services in achieving the statutory purpose for each service. The subpart also requires that county boards submit periodic reports in the manner prescribed and on forms provided by the commissioner.

This subpart is necessary to comply with Minnesota Statutes, §§245.4886, subdivision 2 and 256E.12, subdivision 3, which state that the "commissioner shall require collection of data and periodic reports" the commissioner deems necessary "to demonstrate the effectiveness" of the mental health services in realizing their purpose.

For children with severe emotional disturbance, the purpose of the children's community-based mental health services listed in Minnesota Statutes, §245.4886, subdivision 1 is "to help each child to function and remain with the child's family in the community." For adult community support and case management services, the purpose of the services is to help "persons with serious and persistent mental illness remain and function in their own communities." Minnesota Statutes, §256E.12, subdivision 3.

It is reasonable to require county boards to use the process administered by the commissioner as a standard process to assure comparability of data from the various county boards. It makes sense to require submission of periodic reports by county boards so that the commissioner may determine the effectiveness of services in achieving their stated purpose.

There is no fiscal impact to the requirement that county boards submit periodic reports because this requirement is no more stringent than current requirements and because the cost of preparing these reports is an eligible expense for the grants funded under this proposed rule.

Subpart 3. Availability and access.

As in subpart 2, this subpart is necessary to comply with Minnesota Statutes, §§246.4886, subdivision 2 and 256E.12, subdivision 3. As noted above, these statutes require the commissioner to "require collection of data and periodic reports" the commissioner deems necessary. If the commissioner must require data collection and periodic reports, it is reasonable that the commissioner have access to them, by having access to the physical plant and grounds of contracting or subcontracting service providers.

By allowing access to the physical plants and grounds of contracting and subcontracting service providers, and to documents and other relevant information, the commissioner can monitor the use of the mental health grants and evaluate whether the grant funds were properly spent. If the funds were improperly spent, the commissioner may then follow parts 9535.1745 (termination and repayment of funds) and 9535.1750 (reallocation of grant funds). The same reasoning applies to the language allowing the commissioner to make photocopies, photographs, and audio and videotape recordings.

The commissioner has the right to receive only documents and information relevant to mental health services specified in this rule in order to determine whether or not the services are effective in helping adults and children remain and function in their own communities. Further, the provisions of Minnesota Statutes, chapter 13 (the Minnesota Government Data Practices

Act) must be met in order to protect the privacy of the people receiving mental health services.

Subpart 4. Retention of records.

This subpart is necessary to provide a uniform standard for retention of records.

The proposed record retention requirements are reasonable as they conform to the standard department requirement for record retention. Allowing records to be retained on computers, on computer disks, and on microfilm is reasonable because this is the standard county and service provider practice.

REPEALER. Parts 9535.0100 to 9535.1600 are repealed because this rule encompasses the language of these parts in an updated form.

EXPERT WITNESSES/SMALL BUSINESS

If this rule is heard in public hearing, the Department does not intend to have outside expert witnesses testify on its behalf. Because the proposed rule relates to county administration of a state program, the proposed rule does not affect small businesses as defined in Minnesota Statutes, §14.115.

AGRICULTURAL LAND

The proposed rule amendments do not have a direct or substantial adverse effect on agricultural land as defined in Minnesota Statutes, §17.81, subdivision 3 and referenced in Minnesota Statutes, §14.11, subdivision 2.

Dated: 6-12-92

NATALIE HAAS STEFFEN
Commissioner

AUK
9-25-92

RULE REVIEW CHECKLIST

File No. 1952
DATE RECEIVED 9-22-92
REVIEW DATE 10-1-92
DUE DATE 10-6-92
~~(DIS)~~APPROVED 10-6-92
WITHDRAWN _____

Docket No. 05 0009 0873
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON 9-25-92
REVISOR (DIS)APPROVED 9-25-92
FILED W/SEC. OF STATE 10-7-92
RETURNED TO AGENCY 10-7-92

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)
May 6, 1991 Date published in State Register
_____ Comments

_____ Petition for Adoption of a Rule

_____ Board's Authorizing Resolution
_____ Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
245.484, 245.4886 Statutory Authority 256 E.12
NO Statement Small Business Statement
_____ Expenditure of public money statement
~~July~~ June 12, 1992 Signature

✓ Statement of Need and Reasonableness (if applicable)
✓ Small Business Statement
_____ Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
July 15, 1992 Dated 30/25 days before adoption
✓ Notice attached indicates it is attached
_____ Copy of rule or summary attached

✓ Publication in State Register
July 20, 1992 Date 30/25 days before adoption

✓ 180-day deadline from:
✓ Effective date of law requiring rule (14.12) (both rules) amendments don't apply not new mat
✓ end of comment period (§ 14.26) (rules without hearing)
_____ effective date of statutory authority (§ 14.29) (emergency rules)

_____ Resolution Adopting
_____ Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
Sept 20, 1992 Date

NA Written Requests, Submissions or Comments

✓ Declaration of Attorney
Cheryl Heilman Name of SAAG representing agency 60687

_____ Notice of Submission to Attorney General (if applicable)

_____ Affidavit of Mailing Notice to Attorney General (if applicable)

Rules acl

STATE OF MINNESOTA

Office of the Attorney General

TO : ELEANOR WEBER
Rules and Bulletins Division
Department of Human Services
444 Lafayette Road
St. Paul

DATE : October 7, 1992

FROM : AMY V. KVALSETH
Special Assistant
Attorney General

PHONE : 296-9422

SUBJECT : In the Matter of the Adopted Rule Relating to State Grants for Mental Health Services

The above-referenced rule has been approved as to its legality by the Attorney General on October 6, 1992.

Enclosed is your copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

Enclosures
cc: Cheryl Heilman
William Brown, Chief Judge
MaryAnn Hruby

AVK:jj.rules.bb6

Department of Human Services

Adopted Permanent Rules Relating to State Grants for Mental Health Services

Rules as Adopted

9535.1700 PURPOSE.

Parts 9535.1700 to 9535.1760 establish standards for the receipt and distribution of state grants allocated under Minnesota Statutes, section 245.4886, to assist county boards in the delivery of children's community-based mental health services, and under Minnesota Statutes, section 256E.12, to assist county boards in the delivery of adult community support and case management services.

Use of state grants must be in accordance with Minnesota Statutes, sections 245.4886 and 256E.12.

9535.1705 DEFINITIONS.

Subpart 1. **Scope.** Unless otherwise defined in this part, the terms used in parts 9535.1700 to 9535.1760 have the meanings given them in Minnesota Statutes, sections 245.462 and 245.4871. For the purposes of parts 9535.1700 to 9535.1760, the terms defined in subparts 2 to 4 have the meanings given them.

Subp. 2. **Children's community-based mental health services.** "Children's community-based mental health services" means the services listed in Minnesota Statutes, section 245.4886, subdivision 1.

Subp. 3. **County funds.** "County funds" means funds available to a county through county levies, state block grants under Minnesota Statutes, section 256E.06, federal block grants under Minnesota Statutes, section 256E.07, family preservation grants under Minnesota Statutes, section 256F.05, and state revenues distributed in lieu of property taxes or other revenue sharing.

Subp. 4. **Grant period.** "Grant period" means the time period in the grant application approved by the commissioner.

9535.1710 ELIGIBILITY TO RECEIVE GRANT.

Only county boards that submit and obtain the commissioner's approval for the grant application as required under parts 9535.1700 to 9535.1760 are eligible to receive grants under parts 9535.1700 to 9535.1760.

9535.1715 GRANT APPLICATION.

Subpart 1. **Application for grants.** A county board or two or more county boards jointly applying for a grant under part 9535.1710 shall submit to the commissioner a grant application that includes budget information for the use of the grant funds. The grant application must be completed in the manner prescribed on forms provided by the commissioner. Beginning with calendar years 1994 and 1995, the grant application must be part of the county board's biennial community social services plan, except that any grant application for a special project under part 9535.1730 need not be included in the county board's biennial community social services plan.

Subp. 2. **County board signature or copy of approving resolution.** As evidence of the county board's approval, the grant application submitted to the commissioner by the county board must be:

A. signed by the chair of the county board; or

B. accompanied by a copy of the county board resolution approving the submission.

If two or more county boards jointly apply for a grant, the chair of each county board participating in the joint application shall either sign the grant application or submit a copy of the county board's resolution approving the submission.

9535.1720 FUNDING CRITERIA.

The commissioner shall distribute grants to county boards whose grant applications meet the criteria in items A to E.

A. The grant application must be consistent with the respective mental health component of the county's community social services plan required by Minnesota Statutes, section

256E.09, that is approved by the commissioner.

B. For grants to provide children's community-based mental health services, the grant application must describe how the county board is collaborating or will collaborate in the development, funding, and delivery of children's community-based mental health services with other agencies in the local system of care.

C. The grant application must comply with parts 9535.1700 to 9535.1760 and with Minnesota Statutes, sections 245.461 to 245.4888.

D. In the grant application submitted to the commissioner according to part 9535.1715, the county board shall agree that:

(1) it considered the advice of the local adult or children's mental health advisory council, or the adult or children's mental health subcommittee of the existing local mental health advisory council when developing the grant application;

(2) it will consider the advice of the local adult or children's mental health advisory council, or the adult or children's mental health subcommittee of the existing local mental health advisory council if the grant application is amended;

(3) services will be provided in accordance with the needs identified in each client's individual or family community support plan;

(4) where available, the following will be used instead of grant funds under parts 9535.1700 to 9535.1760:

(a) medical assistance, under Minnesota Statutes, section 256B.0625;

(b) general assistance medical care, under Minnesota Statutes, section 256D.03;

(c) the children's health plan, under Minnesota Statutes, section 256.936;

(d) the health right plan, under Minnesota Statutes, section 256.936;

(e) private insurance and other third-party payors;

(f) client fees, under Minnesota Statutes, section 245.481; and

(g) other funds; and

(5) the cost per unit of service as determined by the commissioner will be comparable to the cost of similar services in the same or similar local trade area. "Local trade area" has the meaning given it in part 9505.0175, subpart 22.

E. The grant application must state that grant funds will only be used for:

(1) the services specified in Minnesota Statutes, section 245.4886, and as defined in Minnesota Statutes, section 245.4871; or

(2) the services specified in Minnesota Statutes, section 256E.12, and as defined in Minnesota Statutes, section 245.462; and

(3) other services that:

(a) have minor costs;

(b) are essential for the provision of services specified in Minnesota Statutes, section 245.4886 or 256E.12;

(c) cannot be paid for from the funds listed in item D, subitem (4); and

(d) are approved by the commissioner.

If the commissioner determines that a grant application merits funding but does not meet the criteria in parts 9535.1700 to 9535.1760, the commissioner shall specify the conditions the grant application must meet in order to receive the grant.

9535.1725 DISTRIBUTION FORMULA.

At or before the beginning of the grant period, the commissioner shall use the formulas in items A to F to distribute grants under parts 9535.1700 to 9535.1760 to county boards whose grant applications meet the requirements in parts 9535.1700 to 9535.1760.

A. Within the limits of the appropriations under Minnesota Statutes, section 245.4886 or 256E.12, the commissioner shall allocate to each county board whose grant application is approved under part 9535.1720, the greater of the following:

(1) an annual allocation equal to the county's allocation for the preceding year, excluding any supplemental funds reallocated from other counties, plus a cost of living increase based on the legislative appropriation for that purpose;

(2) at least $22,000 annually for children with severe emotional disturbance, or at least $41,000 annually for adults with serious and persistent mental illness; or

(3) $2.25 per capita for children with severe emotional disturbance, or $2.10 per capita for adults with serious and persistent mental illness. Per capita must be based on the respective county adult or child population as determined by the most recent data of the state demographer.

B. The amount under item A, subitem (1), does not include special project funds under part 9535.1730 unless the commissioner determines a special project is more appropriately funded as part of the ongoing allocation under this part.

C. The commissioner shall increase the amounts in item A, subitems (2) and (3), to the extent funds are available, to enable more services to be provided as required by Minnesota Statutes, sections 245.461 to 245.4888.

D. If the appropriations under this part are decreased <u>from the appropriations for the preceding year</u>, then the per-county allocations in item A must be decreased in the same proportion as the decrease in the appropriation and must not be adjusted to reflect new data of the state demographer.

E. If the appropriations under this part remain the same as the appropriations in the preceding year, the per-county allocations in item A must be the same as those in the preceding year and must not be adjusted to reflect new data of the state demographer.

F. Two or more county boards that apply jointly for a grant shall receive a multicounty grant equal to the sum of the individual county board allocations in items A to E. Actual utilization of grants by each participating county board may be different from the individual county board allocation in items A to E if the county boards demonstrate to the commissioner that the differences are based on differing service needs of each county.

9535.1730 FUNDING SPECIAL PROJECTS.

In addition to grants distributed under part 9535.1725, a county board may apply to the commissioner for grants for special projects designed to help children with severe emotional disturbance to function and remain with their families in the community and to help adults with serious and persistent mental illness to function and remain in the community. Special projects must provide at least one of the services under Minnesota Statutes, section 245.4886, subdivision 1, or 256E.12, subdivision 1, unless the legislature enacts appropriations under Minnesota Statutes, section 245.4886 or 256E.12, for a different service.

Within the limits of appropriations available, the commissioner may award grants to county boards for special projects the commissioner believes will help children with severe emotional disturbance to function and remain with their families in the community and will help adults with serious and persistent mental illness to function and remain in the community.

9535.1735 BUDGET REQUIREMENTS.

Subpart 1. **Estimated budget required.** When applying for a grant, the county board shall submit to the commissioner a budget covering all children's community-based mental health services or all adult community support and case management services to be provided by the county board, its contracting service providers, and any subcontracting service providers.

Additionally, the county board's budget must show the total

projected revenue from the following sources:

A. grant funds under parts 9535.1700 to 9535.1760;

B. county funds;

C. medical assistance;

D. general assistance medical care;

E. client fees;

F. private insurance and other third-party payors;

G. other public agencies, including schools, colleges, health departments, and corrections;

H. other sources;

I. the children's health plan, under Minnesota Statutes, section 256.936; and

J. the health right plan, under Minnesota Statutes, section 256.936.

Subp. 2. **Submittal of contracting service provider budgets.** The county board shall submit to the commissioner the name, budgeted expenditures, budgeted revenues, and a list of services provided by the county board's contracting service providers or subcontracting service providers.

Subp. 3. **Provider contracts and subcontracts.** All contracts for services between a county board and a service provider, and all contracts for services between a contracting service provider and a subcontracting service provider must be in accordance with parts 9550.0010 to 9550.0092, governing the administration of community social services, and parts 9535.1700 to 9535.1760.

Subp. 4. **Joint applications.** When two or more county boards apply jointly for grants, they shall designate which county board will:

A. act as the host county to receive the grant; and

B. designate a contact person.

County boards applying jointly shall agree by resolution on the assignment of responsibilities in parts 9535.1700 to 9535.1760.

Subp. 5. **Matching funds required for grants for adult community support and case management services.** When applying

for a grant for adult community support and case management services, the county board shall provide matching funds of at least ten percent of the budget estimated under subpart 1. For purposes of this subpart, "matching funds" means the revenue from the sources listed in subpart 1, items B to H.

9535.1740 PAYMENT TO COUNTY BOARD.

Subpart 1. **Fiscal reports.** The commissioner shall specify requirements for fiscal reporting under Minnesota Statutes, section 256.01, subdivision 2, clause (17).

Additionally, if the commissioner requests, the county board shall submit, by service provider, a year-end summary of the total expenditures and the total revenues by revenue sources listed in part 9535.1735, subpart 1.

Subp. 2. **Grant payments.** The commissioner shall make quarterly grant payments under this part to a county board whose grant application is approved under parts 9535.1710 to 9535.1760. The commissioner shall make an initial advance in an amount sufficient to cover the time period from the beginning of the grant period to the next scheduled payment. The commissioner shall make subsequent quarterly grant payments on a reimbursement basis for actual expenditures reported by a county board to the commissioner. The commissioner shall adjust the quarterly grant payments for anticipated spending patterns and additional income according to subpart 3.

Total payments for a grant period must not exceed the lesser of the following, made according to a budget approved under parts 9535.1710 to 9535.1760:

A. the grant award;

B. 90 percent of actual expenditures under Minnesota Statutes, section 256.12; or

C. 100 percent of actual expenditures under Minnesota Statutes, section 245.4886.

Subp. 3. **Disposition of additional income.** If a county board, its contracting service providers, or subcontracting service providers receive revenue for the services specified in

the grant application approved by the commissioner exceeding the amount of revenue estimated in the budget, the county board shall:

A. use the additional income to provide additional children's community-based mental health services, or adult community support and case management services within the grant period in which the additional income is received;

B. use the additional income in place of the county board funds committed to services in the county board's approved budget, if the county board's total mental health expenditure, after the reduction in county funds, complies with the maintenance of effort provisions in Minnesota Statutes, section 245.48; or

C. notify the commissioner on an annual basis of the amount of actual excess revenue and request the commissioner to authorize the transfer of some or all of these excess funds to the subsequent grant period. The commissioner shall authorize the transfer or adjust the subsequent payment by an amount equal to the excess revenue.

9535.1745 TERMINATION AND REPAYMENT OF FUNDS.

If the commissioner determines that state grants for services allocated to the county board under Minnesota Statutes, section 245.4886 or 256E.12, are not being used as specified in a county board's approved grant application, the commissioner may terminate all or part of the grant funds and may require repayment according to Minnesota Statutes, section 245.483.

9535.1750 REALLOCATION OF GRANT FUNDS.

The commissioner may reallocate returned or unused grant funds to other eligible county boards as a supplemental allocation under parts 9535.1700 to 9535.1760, or for special projects under part 9535.1730. For purposes of this part, "unused grant funds" means:

A. grant funds not awarded to a county board; or

B. grant funds awarded to a county board but not used.

9535.1755 BUDGET AMENDMENTS.

A county board that finds it necessary to amend the budget approved by the commissioner shall follow the procedures for amending the adult mental health component of a county's community social services plan under Minnesota Statutes, section 245.478, subdivision 9, or the children's mental health component of a county's community social services plan under Minnesota Statutes, section 245.4888, subdivision 9. The commissioner shall give approval if a county board demonstrates a need to change the services funded under Minnesota Statutes, section 245.4886 or 256E.12, based on an assessment of unmet needs of children with severe emotional disturbance and their families or adults with serious and persistent mental illness, and if all the requirements of Minnesota Statutes, sections 245.461 to 245.4888, and 256E.081 are met.

9535.1760 RECORDS.

Subpart 1. **Maintenance of financial records.** The county board, its contracting service providers, and any subcontracting service providers shall maintain financial records using generally accepted accounting principles so that:

A. expenditures for services funded under parts 9535.1700 to 9535.1760 can be easily compared to the county board's approved budget for those services;

B. all sources of income can be readily identified; and

C. documentation is available for all expenditures.

Budget records must include copies of all fiscal reports submitted to meet state or federal requirements.

Subp. 2. **Maintenance of service records and required reporting.** The county board, its contracting service providers, and any subcontracting service providers shall maintain data specified by the commissioner on services funded under parts 9535.1700 to 9535.1760, so the commissioner can determine the effectiveness of the services in achieving the purpose specified under Minnesota Statutes, sections 245.461 to 245.4888.

The county board must submit periodic reports in the manner prescribed and on forms provided by the commissioner.

Subp. 3. **Availability and access.** The county board, its contracting service providers, and any subcontracting service providers shall upon request make all budget, expenditure, and service records pertaining to the provision of services funded under parts 9535.1700 to 9535.1760 available to the commissioner for audit purposes.

The commissioner shall be given access without prior notice to the physical plant and grounds of contracting service providers and subcontracting service providers and to documents and information relevant to services funded under parts 9535.1700 to 9535.1760. The commissioner shall be given access whenever the commissioner deems necessary. The requirements of Minnesota Statutes, chapter 13, pertaining to government data practices must be followed.

Additionally, the county board, its contracting service providers, and any subcontracting service providers shall allow the commissioner to make photocopies, photographs, and audio and videotape recordings at the commissioner's expense and in accordance with Minnesota Statutes, chapter 13.

Subp. 4. **Retention of records.** The county board, its contracting service providers, and any subcontracting service providers shall retain a copy of the records required under subpart 1 for three years plus the current year unless an audit requires a longer retention period. The records may be microfilmed at the end of the third year after the record was made. For purposes of this subpart, "copy of the records" means a photocopy or a computer-generated reproduction.

REPEALER. Minnesota Rules, parts 9535.0100; 9535.0200; 9535.0300; 9535.0400; 9535.0500; 9535.0600; 9535.0700; 9535.0800; 9535.0900; 9535.1000; 9535.1100; 9535.1200; 9535.1300; 9535.1400; 9535.1500; and 9535.1600, are repealed.

APPROVED AS TO FORM AND LEGALITY

10-6 19 92

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Amy V. Kvalseth
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

OCT 7 1992

Joan Anderson Growe
Secretary of State

9:00 AM
PRB

(1) Check emergency rule (16 S.R. 1591)
effective 12/27/91 — ✓ see if
DHS renewed it as leg'd.
YES — see 16 S.R. 2564

(2) Look up auth. in 245.4886 — YES — subd. 2 has RM auth.

(3) Check auth. of Georgia Steiner - deputy cmsnr. to sign for Cmsnr.

(4) Want to change name of "health right plan"?
9535.1720 - D(4)(A) —
(check wording in 256.936 } Stat. does call it "MN Health Right Plan"
✓ 9535.1735 subp. 1 J.

(5) criteria for cmsnr decision?
9535.1720 E ~~(3)(a)~~ last ¶.
from SONAR seems to imply county would need to collect grant applications, not that new conditions are set up. at.
modelled after 245.478 gives this to look
John Zakelj 296-4426 program atty

(6) 9535.1725
D&E don't make sense 6/c A(3) Part A
legs. use of most recent data of state with min. level of grant
demographer.
Why wouldn't E chng. each yr. then?
or when does A(3) kick in?
D&E addresses unusual sit.
ask John

~~Stefanie~~ Schwartz - 297-4302

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of the Rule of the State Department of Human Services Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families, and Governing Grants for Community Support and Case Management Services for Adults with Serious and Persistent Mental Illness, Minnesota Rules, parts 9535.1700 to 9535.1760

SUPPLEMENTAL FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

Notice of the Commissioner's intent to adopt the above-entitled rule was published in the State Register on Monday, July 20, 1992 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22, on Friday, July 17, 1992. The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. No requests for a public hearing on the rule were received by the agency. No submissions or comments on the rule were received by the agency. No requests for notice of submission to the attorney general were received by the agency.

Based on the comments and evidence in the record before the agency, I find the following:

That the Attorney General, Public Finance Division has requested that part 9535.1725, item D be clarified. As proposed, item D states:

9535.1725 DISTRIBUTION FORMULA.

D. If the appropriations under this part are decreased, then the per-county allocations in item A must be decreased in the same proportion as the decrease in the appropriation and must not be adjusted to reflect new data of the state demographer.

Because it is not clear from what beginning amount appropriations are to be decreased, it is necessary to add clarifying language, and reasonable to indicate the beginning amount - the appropriations for the preceding year. This is not a substantial change because the new language merely makes clear from what starting amount the appropriations may be reduced.

Therefore, part 9535.1725, item D is amended to read:

> D. If the appropriations under this part are decreased <u>from the appropriations for the preceding year</u>, then the per-county allocations in item A must be decreased in the same proportion as the decrease in the appropriation and must not be adjusted to reflect new data of the state demographer.

This new language also makes item D consistent with item E, which states that if "appropriations under this part remain the same as the *appropriations in the preceding year* . . . ." (emphasis added).

The above-captioned rule is needed and reasonable.

CONCLUSIONS

I hereby conclude that:

1. All modifications made to the proposed rule are not substantial changes.

2. The rules, as modified, are necessary and reasonable.

3. Any duplication in these rules or language contained in Minnesota Statutes is crucial to the ability of persons affected by the rules to comprehend their meaning and effect.

4. The Department has complied with all applicable provisions of law and rule in the promulgation of these rules.

5. If any finding or part of a finding, above, is properly characterized as a conclusion, it is adopted as a conclusion.

NOW, THEREFORE, IT IS ORDERED that the rule identified as governing Grants for Community-based Mental Health Services for Children with Severe Emotional Disturbance and their Families, and governing Grants for Community Support and Case Management Services for Adults with Serious and Persistent Mental Illness, Minnesota Rules, parts 9535.1700 to 9535.1760 is adopted this 6th day of October, 1992, pursuant to authority vested in me by Minnesota Statutes, sections 245.484, 245.4886, and 256E.12.

NATALIE HAAS STEFFEN
Commissioner

Department of Human Services

Adopted Permanent Rules Relating to State Grants for Mental Health Services

Rules as Adopted

9535.1700 PURPOSE.

Parts 9535.1700 to 9535.1760 establish standards for the receipt and distribution of state grants allocated under Minnesota Statutes, section 245.4886, to assist county boards in the delivery of children's community-based mental health services, and under Minnesota Statutes, section 256E.12, to assist county boards in the delivery of adult community support and case management services.

Use of state grants must be in accordance with Minnesota Statutes, sections 245.4886 and 256E.12.

9535.1705 DEFINITIONS.

Subpart 1. **Scope.** Unless otherwise defined in this part, the terms used in parts 9535.1700 to 9535.1760 have the meanings given them in Minnesota Statutes, sections 245.462 and 245.4871. For the purposes of parts 9535.1700 to 9535.1760, the terms defined in subparts 2 to 4 have the meanings given them.

Subp. 2. **Children's community-based mental health services.** "Children's community-based mental health services" means the services listed in Minnesota Statutes, section 245.4886, subdivision 1.

Subp. 3. **County funds.** "County funds" means funds available to a county through county levies, state block grants under Minnesota Statutes, section 256E.06, federal block grants under Minnesota Statutes, section 256E.07, family preservation grants under Minnesota Statutes, section 256F.05, and state revenues distributed in lieu of property taxes or other revenue sharing.

Subp. 4. **Grant period.** "Grant period" means the time period in the grant application approved by the commissioner.

9535.1710 ELIGIBILITY TO RECEIVE GRANT.

Only county boards that submit and obtain the commissioner's approval for the grant application as required under parts 9535.1700 to 9535.1760 are eligible to receive grants under parts 9535.1700 to 9535.1760.

9535.1715 GRANT APPLICATION.

Subpart 1. **Application for grants.** A county board or two or more county boards jointly applying for a grant under part 9535.1710 shall submit to the commissioner a grant application that includes budget information for the use of the grant funds. The grant application must be completed in the manner prescribed on forms provided by the commissioner. Beginning with calendar years 1994 and 1995, the grant application must be part of the county board's biennial community social services plan, except that any grant application for a special project under part 9535.1730 need not be included in the county board's biennial community social services plan.

Subp. 2. **County board signature or copy of approving resolution.** As evidence of the county board's approval, the grant application submitted to the commissioner by the county board must be:

A. signed by the chair of the county board; or

B. accompanied by a copy of the county board resolution approving the submission.

If two or more county boards jointly apply for a grant, the chair of each county board participating in the joint application shall either sign the grant application or submit a copy of the county board's resolution approving the submission.

9535.1720 FUNDING CRITERIA.

The commissioner shall distribute grants to county boards whose grant applications meet the criteria in items A to E.

A. The grant application must be consistent with the respective mental health component of the county's community social services plan required by Minnesota Statutes, section

256E.09, that is approved by the commissioner.

B. For grants to provide children's community-based mental health services, the grant application must describe how the county board is collaborating or will collaborate in the development, funding, and delivery of children's community-based mental health services with other agencies in the local system of care.

C. The grant application must comply with parts 9535.1700 to 9535.1760 and with Minnesota Statutes, sections 245.461 to 245.4888.

D. In the grant application submitted to the commissioner according to part 9535.1715, the county board shall agree that:

(1) it considered the advice of the local adult or children's mental health advisory council, or the adult or children's mental health subcommittee of the existing local mental health advisory council when developing the grant application;

(2) it will consider the advice of the local adult or children's mental health advisory council, or the adult or children's mental health subcommittee of the existing local mental health advisory council if the grant application is amended;

(3) services will be provided in accordance with the needs identified in each client's individual or family community support plan;

(4) where available, the following will be used instead of grant funds under parts 9535.1700 to 9535.1760:

(a) medical assistance, under Minnesota Statutes, section 256B.0625;

(b) general assistance medical care, under Minnesota Statutes, section 256D.03;

(c) the children's health plan, under Minnesota Statutes, section 256.936;

(d) the health right plan, under Minnesota Statutes, section 256.936;

(e) private insurance and other third-party payors;

(f) client fees, under Minnesota Statutes, section 245.481; and

(g) other funds; and

(5) the cost per unit of service as determined by the commissioner will be comparable to the cost of similar services in the same or similar local trade area. "Local trade area" has the meaning given it in part 9505.0175, subpart 22.

E. The grant application must state that grant funds will only be used for:

(1) the services specified in Minnesota Statutes, section 245.4886, and as defined in Minnesota Statutes, section 245.4871; or

(2) the services specified in Minnesota Statutes, section 256E.12, and as defined in Minnesota Statutes, section 245.462; and

(3) other services that:

(a) have minor costs;

(b) are essential for the provision of services specified in Minnesota Statutes, section 245.4886 or 256E.12;

(c) cannot be paid for from the funds listed in item D, subitem (4); and

(d) are approved by the commissioner.

If the commissioner determines that a grant application merits funding but does not meet the criteria in parts 9535.1700 to 9535.1760, the commissioner shall specify the conditions the grant application must meet in order to receive the grant.

9535.1725 DISTRIBUTION FORMULA.

At or before the beginning of the grant period, the commissioner shall use the formulas in items A to F to distribute grants under parts 9535.1700 to 9535.1760 to county boards whose grant applications meet the requirements in parts 9535.1700 to 9535.1760.

A. Within the limits of the appropriations under Minnesota Statutes, section 245.4886 or 256E.12, the commissioner shall allocate to each county board whose grant application is approved under part 9535.1720, the greater of the following:

(1) an annual allocation equal to the county's allocation for the preceding year, excluding any supplemental funds reallocated from other counties, plus a cost of living increase based on the legislative appropriation for that purpose;

(2) at least $22,000 annually for children with severe emotional disturbance, or at least $41,000 annually for adults with serious and persistent mental illness; or

(3) $2.25 per capita for children with severe emotional disturbance, or $2.10 per capita for adults with serious and persistent mental illness. Per capita must be based on the respective county adult or child population as determined by the most recent data of the state demographer.

B. The amount under item A, subitem (1), does not include special project funds under part 9535.1730 unless the commissioner determines a special project is more appropriately funded as part of the ongoing allocation under this part.

C. The commissioner shall increase the amounts in item A, subitems (2) and (3), to the extent funds are available, to enable more services to be provided as required by Minnesota Statutes, sections 245.461 to 245.4888.

D. If the appropriations under this part are decreased, then the per-county allocations in item A must be decreased in the same proportion as the decrease in the appropriation and must not be adjusted to reflect new data of the state demographer.

E. If the appropriations under this part remain the same as the appropriations in the preceding year, the per-county allocations in item A must be the same as those in the preceding year and must not be adjusted to reflect new data of the state demographer.

F. Two or more county boards that apply jointly for a grant shall receive a multicounty grant equal to the sum of the individual county board allocations in items A to E. Actual utilization of grants by each participating county board may be different from the individual county board allocation in items A to E if the county boards demonstrate to the commissioner that the differences are based on differing service needs of each county.

9535.1730 FUNDING SPECIAL PROJECTS.

In addition to grants distributed under part 9535.1725, a county board may apply to the commissioner for grants for special projects designed to help children with severe emotional disturbance to function and remain with their families in the community and to help adults with serious and persistent mental illness to function and remain in the community. Special projects must provide at least one of the services under Minnesota Statutes, section 245.4886, subdivision 1, or 256E.12, subdivision 1, unless the legislature enacts appropriations under Minnesota Statutes, section 245.4886 or 256E.12, for a different service.

Within the limits of appropriations available, the commissioner may award grants to county boards for special projects the commissioner believes will help children with severe emotional disturbance to function and remain with their families in the community and will help adults with serious and persistent mental illness to function and remain in the community.

9535.1735 BUDGET REQUIREMENTS.

Subpart 1. **Estimated budget required.** When applying for a grant, the county board shall submit to the commissioner a budget covering all children's community-based mental health services or all adult community support and case management services to be provided by the county board, its contracting service providers, and any subcontracting service providers.

Additionally, the county board's budget must show the total

projected revenue from the following sources:

A. grant funds under parts 9535.1700 to 9535.1760;

B. county funds;

C. medical assistance;

D. general assistance medical care;

E. client fees;

F. private insurance and other third-party payors;

G. other public agencies, including schools, colleges, health departments, and corrections;

H. other sources;

I. the children's health plan, under Minnesota Statutes, section 256.936; and

J. the health right plan, under Minnesota Statutes, section 256.936.

Subp. 2. **Submittal of contracting service provider budgets.** The county board shall submit to the commissioner the name, budgeted expenditures, budgeted revenues, and a list of services provided by the county board's contracting service providers or subcontracting service providers.

Subp. 3. **Provider contracts and subcontracts.** All contracts for services between a county board and a service provider, and all contracts for services between a contracting service provider and a subcontracting service provider must be in accordance with parts 9550.0010 to 9550.0092, governing the administration of community social services, and parts 9535.1700 to 9535.1760.

Subp. 4. **Joint applications.** When two or more county boards apply jointly for grants, they shall designate which county board will:

A. act as the host county to receive the grant; and

B. designate a contact person.

County boards applying jointly shall agree by resolution on the assignment of responsibilities in parts 9535.1700 to 9535.1760.

Subp. 5. **Matching funds required for grants for adult community support and case management services.** When applying

for a grant for adult community support and case management services, the county board shall provide matching funds of at least ten percent of the budget estimated under subpart 1. For purposes of this subpart, "matching funds" means the revenue from the sources listed in subpart 1, items B to H.

9535.1740 PAYMENT TO COUNTY BOARD.

Subpart 1. **Fiscal reports.** The commissioner shall specify requirements for fiscal reporting under Minnesota Statutes, section 256.01, subdivision 2, clause (17).

Additionally, if the commissioner requests, the county board shall submit, by service provider, a year-end summary of the total expenditures and the total revenues by revenue sources listed in part 9535.1735, subpart 1.

Subp. 2. **Grant payments.** The commissioner shall make quarterly grant payments under this part to a county board whose grant application is approved under parts 9535.1710 to 9535.1760. The commissioner shall make an initial advance in an amount sufficient to cover the time period from the beginning of the grant period to the next scheduled payment. The commissioner shall make subsequent quarterly grant payments on a reimbursement basis for actual expenditures reported by a county board to the commissioner. The commissioner shall adjust the quarterly grant payments for anticipated spending patterns and additional income according to subpart 3.

Total payments for a grant period must not exceed the lesser of the following, made according to a budget approved under parts 9535.1710 to 9535.1760:

A. the grant award;

B. 90 percent of actual expenditures under Minnesota Statutes, section 256.12; or

C. 100 percent of actual expenditures under Minnesota Statutes, section 245.4886.

Subp. 3. **Disposition of additional income.** If a county board, its contracting service providers, or subcontracting service providers receive revenue for the services specified in

the grant application approved by the commissioner exceeding the amount of revenue estimated in the budget, the county board shall:

A. use the additional income to provide additional children's community-based mental health services, or adult community support and case management services within the grant period in which the additional income is received;

B. use the additional income in place of the county board funds committed to services in the county board's approved budget, if the county board's total mental health expenditure, after the reduction in county funds, complies with the maintenance of effort provisions in Minnesota Statutes, section 245.48; or

C. notify the commissioner on an annual basis of the amount of actual excess revenue and request the commissioner to authorize the transfer of some or all of these excess funds to the subsequent grant period. The commissioner shall authorize the transfer or adjust the subsequent payment by an amount equal to the excess revenue.

9535.1745 TERMINATION AND REPAYMENT OF FUNDS.

If the commissioner determines that state grants for services allocated to the county board under Minnesota Statutes, section 245.4886 or 256E.12, are not being used as specified in a county board's approved grant application, the commissioner may terminate all or part of the grant funds and may require repayment according to Minnesota Statutes, section 245.483.

9535.1750 REALLOCATION OF GRANT FUNDS.

The commissioner may reallocate returned or unused grant funds to other eligible county boards as a supplemental allocation under parts 9535.1700 to 9535.1760, or for special projects under part 9535.1730. For purposes of this part, "unused grant funds" means:

A. grant funds not awarded to a county board; or

B. grant funds awarded to a county board but not used.

9535.1755 BUDGET AMENDMENTS.

A county board that finds it necessary to amend the budget approved by the commissioner shall follow the procedures for amending the adult mental health component of a county's community social services plan under Minnesota Statutes, section 245.478, subdivision 9, or the children's mental health component of a county's community social services plan under Minnesota Statutes, section 245.4888, subdivision 9. The commissioner shall give approval if a county board demonstrates a need to change the services funded under Minnesota Statutes, section 245.4886 or 256E.12, based on an assessment of unmet needs of children with severe emotional disturbance and their families or adults with serious and persistent mental illness, and if all the requirements of Minnesota Statutes, sections 245.461 to 245.4888, and 256E.081 are met.

9535.1760 RECORDS.

Subpart 1. **Maintenance of financial records.** The county board, its contracting service providers, and any subcontracting service providers shall maintain financial records using generally accepted accounting principles so that:

A. expenditures for services funded under parts 9535.1700 to 9535.1760 can be easily compared to the county board's approved budget for those services;

B. all sources of income can be readily identified; and

C. documentation is available for all expenditures.

Budget records must include copies of all fiscal reports submitted to meet state or federal requirements.

Subp. 2. **Maintenance of service records and required reporting.** The county board, its contracting service providers, and any subcontracting service providers shall maintain data specified by the commissioner on services funded under parts 9535.1700 to 9535.1760, so the commissioner can determine the effectiveness of the services in achieving the purpose specified under Minnesota Statutes, sections 245.461 to 245.4888.

The county board must submit periodic reports in the manner prescribed and on forms provided by the commissioner.

Subp. 3. **Availability and access.** The county board, its contracting service providers, and any subcontracting service providers shall upon request make all budget, expenditure, and service records pertaining to the provision of services funded under parts 9535.1700 to 9535.1760 available to the commissioner for audit purposes.

The commissioner shall be given access without prior notice to the physical plant and grounds of contracting service providers and subcontracting service providers and to documents and information relevant to services funded under parts 9535.1700 to 9535.1760. The commissioner shall be given access whenever the commissioner deems necessary. The requirements of Minnesota Statutes, chapter 13, pertaining to government data practices must be followed.

Additionally, the county board, its contracting service providers, and any subcontracting service providers shall allow the commissioner to make photocopies, photographs, and audio and videotape recordings at the commissioner's expense and in accordance with Minnesota Statutes, chapter 13.

Subp. 4. **Retention of records.** The county board, its contracting service providers, and any subcontracting service providers shall retain a copy of the records required under subpart 1 for three years plus the current year unless an audit requires a longer retention period. The records may be microfilmed at the end of the third year after the record was made. For purposes of this subpart, "copy of the records" means a photocopy or a computer-generated reproduction.

REPEALER. Minnesota Rules, parts 9535.0100; 9535.0200; 9535.0300; 9535.0400; 9535.0500; 9535.0600; 9535.0700; 9535.0800; 9535.0900; 9535.1000; 9535.1100; 9535.1200; 9535.1300; 9535.1400; 9535.1500; and 9535.1600, are repealed.

Office of the Revisor of Statutes

Administrative Rules

TITLE: Adopted Permanent Rules Relating to State Grants for Mental Health Services

AGENCY: Department of Human Services

MINNESOTA RULES: Chapter 9535

The attached rules are approved for filing with the Secretary of State

Sandra Glass-Sirany

Sandra Glass-Sirany
Assistant Revisor

6-9421

Stat Authority - attached authority

End of comment period August 19, 1992

2 letters were sent prior to the Notice of Intent must in response to the Notice of Solicitation

RECEIVED
92 JUN 16 PM 1:27
ADMINISTRATIVE
HEARINGS

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Rules of the State Department of Human Services Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families, and Governing Grants for Community Support and Case Management Services for Adults with Serious and Persistent Mental Illness, Minnesota Rules, parts 9535.1700 to 9535.1760

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND NOTICE OF INTENT TO ADOPT A RULE WITH A PUBLIC HEARING IF TWENTY-FIVE OR MORE PERSONS REQUEST A HEARING

(1) Notice is hereby given that the State Department of Human Services proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in Minnesota Statutes, section 14.22 to 14.28. The specific statutory authority to adopt the rule is found in Minnesota Statutes, sections 245.484, which requires the commissioner to adopt permanent rules "as necessary to carry out" the Minnesota Comprehensive Adult Mental Health Act and the Minnesota Comprehensive Children's Mental Health Act; 245.4886, which requires the commissioner to establish a statewide program to assist counties in providing services to children with severe emotional disturbance and their families; and 256E.12, which requires the commissioner to establish a stateside program to assist counties in providing services to persons with serious and persistent mental illness.

(2) Persons interested in this rule shall have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule and comment is encouraged. (3) Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. (4) If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a

sufficient number withdraw their request in writing. (3) Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. (7) If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, section 14.131 to 14.20. (4) PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON AUGUST 31, 1992, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between August 20, 1992 and August 28, 1992 at (612) 296-7454.

(6) Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to: Eleanor Weber, Minnesota Department of Human Services, Rules and Bulletins Division, 444 Lafayette Road, St. Paul, Minnesota 55155-3816.

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on August 19, 1992.

(8) The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

(11) A free copy of this rule is available upon request for your review from Nancy Bishop at the address and telephone number above.

A copy of the proposed rule may be viewed at any of the county welfare or human service agencies in the State of Minnesota.

Proposed parts 9535.1700 to 9535.1760 establish standards for receipt and distribution of state grants to counties for two types of mental health services: community-based mental health services for children with severe emotional disturbance and their families, and community support and case management services for adults with serious and persistent mental illness. The proposed rule will affect counties and contracting service providers, as well as clients of mental health services.

The proposed rule will establish: eligibility to receive grants; funding criteria for grants; criteria for grant applications, the use of grant funds, and grant distributions; budget requirements for counties; county fiscal reporting requirements; that counties will receive grant funds quarterly; criteria for county disposal of revenues attributable to

services specified in the grant applications exceeding the amount of the budget, and for termination and repayment of funds; that the commissioner may reallocate returned or unused funds; criteria for counties to amend budgets; opportunities for counties to apply for grants for special projects; and criteria for maintenance and retention of required records and data, and the commissioner's access to them.

(12) A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from Nancy Bishop at the address and telephone number above.

(13) Adoption of these rules will not result in additional spending by local public bodies. A fiscal note prepared according to the requirements of Minnesota Statutes, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Nancy Bishop at the address and telephone number above.

(9) If no hearing is required upon adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Eleanor Weber at the address above.

State of Minnesota

Dated: 6/12/92

for NATALIE HAAS STEFFEN
Commissioner

245.484 RULES.

The commissioner shall adopt permanent rules as necessary to carry out sections 245.461 to 245.486 and Laws 1989, chapter 282, article 4, sections 1 to 53.

History: *1987 c 403 art 2 s 38; 1989 c 282 art 4 s 33*

245.485 NO RIGHT OF ACTION.

Sections 245.461 to 245.484 and 245.487 to 245.4887 do not independently establish a right of action on behalf of recipients of services or service providers against a county board or the commissioner. A claim for monetary damages must be brought under section 3.736 or 3.751.

History: *1987 c 403 art 2 s 39; 1989 c 282 art 4 s 34*

245.486 LIMITED APPROPRIATIONS.

Nothing in sections 245.461 to 245.485 and 245.487 to 245.4887 shall be construed to require the commissioner or county boards to fund services beyond the limits of legislative appropriations.

History: *1987 c 403 art 2 s 40; 1989 c 282 art 4 s 35*

245.4861 PUBLIC/ACADEMIC LIAISON INITIATIVE.

Subdivision 1. **Establishment of liaison initiative.** The commissioner of human services, in consultation with the appropriate post-secondary institutions, shall establish a public/academic liaison initiative to coordinate and develop brain research and education and training opportunities for mental health professionals in order to improve the quality of staffing and provide state-of-the-art services to residents in regional treatment centers and other state facilities.

Subd. 2. **Consultation.** The commissioner of human services shall consult with the Minnesota department of health, the regional treatment centers, the post-secondary educational system, mental health professionals, and citizen and advisory groups.

Subd. 3. **Liaison initiative programs.** The liaison initiative, within the extent of available funding, shall plan, implement, and administer programs which accomplish the objectives of subdivision 1. These shall include but are not limited to:

(1) encourage and coordinate joint research efforts between academic research institutions throughout the state and regional treatment centers, community mental health centers, and other organizations conducting research on mental illness or working with individuals who are mentally ill;

(2) sponsor and conduct basic research on mental illness and applied research on existing treatment models and community support programs;

(3) seek to obtain grants for research on mental illness from the National Institute of Mental Health and other funding sources;

(4) develop and provide grants for training, internship, scholarship, and fellowship programs for mental health professionals, in an effort to combine academic education with practical experience obtained at regional treatment centers and other state facilities, and to increase the number of mental health professionals working in the state.

Subd. 4. **Private and federal funding.** The liaison initiative shall seek private and federal funds to supplement the appropriation provided by the state. Individuals, businesses, and other organizations may contribute to the liaison initiative. All money

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(a) The number and type of recipients of each service; and

(b) An evaluation on the basis of measurable program objectives and performance criteria for each county social service program.

Subd. 2. **Statewide evaluation.** At the end of the first year covered by the county biennial plan, the commissioner shall prepare a report on the counties' progress in carrying out their plan and make it available to interested parties.

At the end of each period covered by the counties' biennial community social services plan, the commissioner shall prepare an evaluation of the effectiveness of the prior two years performance of each program in relation to identified public social problems, stating the measurable goals, objectives, methods, and outcome for those years, including the extent to which the numbers of persons and families proposed to be served by each category of social service were actually served, the direct cost, and the administrative cost per unit of social service for each category.

History: *1979 c 324 s 10; 1981 c 355 s 18*

256E.11 PILOT PROGRAMS.

Nothing in sections 256E.01 to 256E.12 shall prohibit the commissioner from making grants for pilot programs in certain counties or on a statewide basis when the legislature authorizes money to encourage innovation in community social services programs or to respond to the needs of a specified group of persons.

History: *1979 c 324 s 11*

256E.115 SAFE HOUSES.

The commissioner shall have authority to make grants for pilot programs when the legislature authorizes money to encourage innovation in the development of safe house programs to respond to the needs of homeless youth.

History: *1989 c 282 art 2 s 131*

256E.12 GRANTS FOR COMMUNITY SUPPORT SERVICES PROGRAMS FOR PERSONS WITH SERIOUS AND PERSISTENT MENTAL ILLNESS.

Subdivision 1. The commissioner shall establish a statewide program to assist counties in providing services to persons with serious and persistent mental illness as defined in section 245.462, subdivision 20. The commissioner shall make grants to counties to establish, operate, or contract with private providers to provide services designed to help persons with serious and persistent mental illness remain and function in their own communities. Grants received pursuant to this section may be used to fund community support services programs as specified in section 245.462, subdivision 6, and case management activities that cannot be billed to the medical assistance program under sections 256B.02, subdivision 8, and 256B.0625.

Subd. 2. To apply for a grant a county board shall submit an application and budget for the use of the money in the form specified by the commissioner. The commissioner shall make grants only to counties whose applications and budgets are approved by the commissioner. A county receiving a grant under this section shall finance at least ten percent of the cost of services for persons with serious and persistent mental illness from local resources, which may include private contributions and federal money.

Subd. 3. The commissioner shall allocate grants under this section to finance up to 90 percent of each county's costs for services to persons with serious and persistent mental illness. The commissioner shall promulgate permanent rules to govern grant applications, approval of applications, allocation of grants, and maintenance of financial statements by grant recipients. The commissioner shall specify requirements for reports, including quarterly fiscal reports, according to section 256.01, subdivision 2, paragraph (17). The commissioner shall require collection of data and periodic reports as the commissioner deems necessary to demonstrate the effectiveness of the services in helping persons with serious and persistent mental illness remain and function in their own communities.

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History: *1988*

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History: *1989*

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History: *1979 c 324 s 12; 1981 c 355 s 19; 1984 c 640 s 32; 1Sp1985 c 9 art 2 s 68; 1986 c 349 s 2; 1986 c 444; 1987 c 403 art 2 s 109; 1988 c 689 art 2 s 205-207,268; 1989 c 89 s 20*

NOTE: Laws 1980, Chapter 614, Section 29, Clause (i) reads:

"Notwithstanding the provisions of Minnesota Statutes, Chapter 256E, a county board may delegate to a county welfare board established pursuant to Chapter 393, authority to provide, or approve contracts for the purchase of, the kinds of community social services that were provided or contracted for by county welfare boards prior to the enactment of Laws 1979, Chapter 324. Designation of the method for providing citizen participation in the planning process, final approval of the community social services plan and the distribution of community social services money shall be the responsibility of the county board."

256E.13 RIGHT TO RECEIVE SERVICES IN ANOTHER COUNTY.

A person who is eligible for extended employment services under this chapter has the right to request and receive services outside the county of financial responsibility. The county shall consider the request and shall not disapprove a request for extended employment services solely on the basis that the service is located outside the county.

History: *1988 c 512 s 2*

256E.14 GRANTS FOR CASE MANAGEMENT FOR PERSONS WITH MENTAL RETARDATION OR RELATED CONDITIONS.

For the biennium ending June 30, 1991, the commissioner shall distribute to counties the appropriation made available under this section for case management services for persons with mental retardation or related conditions as follows:

(1) one-half of the appropriation must be distributed to the counties according to the formula in section 256E.06, subdivision 1; and

(2) one-half of the appropriation must be distributed to the counties on the basis of the number of persons with mental retardation or a related condition that were receiving case management services from the county on the January 1 preceding the start of the fiscal year in which the funds are distributed.

History: *1989 c 282 art 6 s 31*

State of Minnesota
Department of Human Services
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155

TO: Patricia Nolte, Legal Assistant
Public Finance Division
525 Park Street, Suite 500

FROM: Stephanie L. Schwartz, Rules Division

DATE: September 22, 1992

SUBJECT: Review of a Rule Adopted Without a Public Hearing; the State Department of Human Services Rules Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families, and Governing Grants for Community Support and Case Management Services for Adults with Serious and Persistent Mental Illness, Minnesota Rules, parts 9535.1700 to 9535.1760

Enclosed are the documents required to be submitted under Minnesota Rules, part 2010.0300 for your review of a rule adopted without a public hearing for the above entitled matter.

Official documents in this submitted material include:

1. A photocopy of the notice of solicitation of outside information or opinions as published in the State Register.

2. A copy of the proposed rule with a certificate of approval as to form by the revisor of statutes attached.

3. The notice of intent to adopt a rule without a public hearing as mailed.

4. The statement of need and reasonableness in support of the proposed rule complying with part 2010.0700.

5. The affidavit of mailing the notice of intent to adopt a rule without a public hearing. The affidavits state that the mailing list maintained by the agency pursuant to Minnesota Statutes, sections 14.22 and 14.14, subdivision 1a is accurate, complete, and current and that the notice of intent to adopt the rule without a public hearing was mailed to all persons and groups whose names appear on the list.

6. A copy or photocopy of the notice of intent to adopt the rule without a public hearing as published in the State Register.

7. Four copies of the rule as adopted. Any modification made to the proposed rule is reflected on the rule as adopted and is approved as to form by the revisor of statutes.

8. The findings of fact, conclusions, and order adopting the rule.

9. All written requests, submissions, or comments on the rule received by the agency except requests solely for copies of the rule or of the statement of need and reasonableness.

10. The declaration of the attorney in the attorney general's office who represents the agency.

11. No requests to be notified of submittal of the rule to the Attorney General were received.

12. A copy of the cover letter to the LCRAR submitting a copy of the Statement of Need and Reasonableness as required under Minnesota Statutes, section 14.131.

If you have any questions on this submitted material, please call me at 297-4302.

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Department of Human Services Rules Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families, and Governing Grants for Community Support and Case Management Services for Adults with Serious and Persistent Mental Illness, Minnesota Rules, parts 9535.1700 to 9535.1760

NOTICE OF HEARING AND NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in Rooms 1A and 1B at the Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota on August 31, 1992 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between August 20, 1992 and August 28, 1992 at (612) 296-7454.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Jon L. Lunde, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone (612) 341-7645, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the

record be kept open for a longer period not to exceed 20 calendar days. Any written materials or responses must be received at the office no later than 4:30 p.m. on the final day. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have five business days to respond in writing to any new information submitted during the comment period. During the five-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the five-day period. Any written materials or responses must be received at the office no later than 4:30 p.m. on the final day. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, sections 14.15 and 14.50. The rule hearing is governed by Minnesota Statutes, sections 14.14 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Proposed parts 9535.1700 to 9535.1760 establish standards for receipt and distribution of state grants to counties for two types of mental health services: community-based mental health services for children with severe emotional disturbance and their families, and community support and case management services for adults with serious and persistent mental illness. The proposed rule will affect counties and contracting service providers, as well as clients of mental health services.

The proposed rule will establish: eligibility to receive grants; funding criteria for grants; criteria for grant applications, the use of grant funds, and grant distributions; budget requirements for counties; county fiscal reporting requirements; that counties will receive grant funds quarterly; criteria for county disposal of revenues attributable to services specified in the grant applications exceeding the amount of the budget, and for termination and repayment of funds; that the commissioner may reallocate returned or unused funds; criteria for counties to amend budgets; opportunities for counties to apply for grants for special projects; and criteria for maintenance and retention of required records and data, and the commissioner's access to them.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, sections 245.484, which requires the commissioner to adopt permanent rules "as necessary to carry out" the Minnesota Comprehensive Adult Mental Health Act and the Minnesota Comprehensive Children's Mental Health Act; 245.4886, which requires the commissioner to establish a statewide program to assist counties in providing services to children with severe emotional disturbance and their families; and 256E.12, which requires the commissioner to establish a statewide program to assist counties in providing services to persons with serious and persistent mental illness. Adoption of these rules will not result in additional spending by local public bodies. A fiscal note prepared according to the

requirements of Minnesota Statutes, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Nancy Bishop, Minnesota Department of Human Services, Rules and Bulletins Division, 444 Lafayette Road, St. Paul, Minnesota 55155-3816, (612) 296-7454.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Nancy Bishop at the address above. This rule is also available for viewing at each of the county welfare or human service agencies in the State of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact John Zakelj, Minnesota Department of Human Services, Mental Health Division, 444 Lafayette Road, St. Paul, Minnesota 55155-3828, (612) 296-4426.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Lobbyists must register with the State Ethical Practices Board. Questions should be directed to the Ethical Practices Board, 1st Floor, Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone (612) 296-5148.

Date: 6/12/92

for George Jaffenich
NATALIE HAAS STEFFEN
Commissioner

Minnesota Comprehensive Health Association

Notice of Meeting of Nominating Committee

NOTICE IS HEREBY GIVEN that a meeting of the Minnesota Comprehensive Health Association Nominating Committee will be held on Wednesday, May 8, 1991, at 9:00 a.m. at Blue Cross and Blue Shield of Minnesota located at 3535 Blue Cross Road, Eagan, Minnesota. The meeting will be held in the sixth floor dining room.

For additional information, please call Lynn Gruber at 683-2150.

Minnesota Comprehensive Health Association

Notice of Meeting of Member Company Appeal Committee

NOTICE IS HEREBY GIVEN that a meeting of the Minnesota Comprehensive Health Association Member Company Appeal Committee will be held on Wednesday, May 8, 1991 at 2:30 p.m. in the lower level conference room at the Park Place Office Center, located at 5775 Wayzata Boulevard, St. Louis Park, Minnesota.

For additional information, please call Lynn Gruber at 683-2150.

Minnesota Historical Society

State Review Board Regular Meeting

A meeting of the State Review Board of the Minnesota Historical Society to consider nominations to the National Register of Historic Places will be held on Thursday, May 23, 1991, in the Auditorium of the Fort Snelling History Center, Fort Snelling, Minnesota. The Preservation Office staff will make an informational presentation on program activities at 5:30 p.m. The meeting will be called to order and consideration of the meeting's agenda will begin at 7:00 p.m. For further information contact the State Historic Preservation Office, Minnesota Historical Society, Fort Snelling History Center, St. Paul, MN 55111, (612) 726-1171.

Department of Human Services

Mental Health Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Revision of Adopted Rules Governing Community Support Services for Chronically Mentally Ill Persons

NOTICE IS HEREBY GIVEN that the State Department of Human Services is seeking information or opinions from sources outside the agency in preparing to propose revisions to adopted rules governing Community Support Services Programs for Chronically Mentally Ill Persons, parts 9535.0100 to 9535.1600. These rules, also known as DHS Rule 14, will be revised to bring the rule into compliance with the Adult Comprehensive Mental Health Act, *Minnesota Statutes*, sections 245.61 to 245.486.

The rules are authorized by *Minnesota Statutes*, section 256E.12, subdivision 3.

The State Department of Human Services requests information and opinions concerning the administration of grants for the provision of community support services to persons with serious or persistent mental illness. Interested persons or groups may submit data or views in writing or orally. Written statements should be addressed to:

Eleanor Weber
Rules and Bulletins Division
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3816

Oral statements will be received during the regular business hours over the telephone at (612) 297-4301 and in person at the above address.

All statements of information and opinions shall be accepted until further notice is published in the *State Register* or the Notice of Hearing or Notice of Intent to Adopt Rules Without a Hearing is published in the *State Register*. Any written material received by the State Department of Human Services shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event the rule is adopted.

The State Department of Human Services requests information and opinions concerning the subject matter of the rules. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Eleanor Weber
Rules and Bulletins Division
Department of Human Services
444 Lafayette Road
St. Paul, MN 55155-3816

Oral statements will be received during regular business hours over the telephone at (612) 297-4301 and in person at the above address.

All statements of information and opinions shall be accepted until further notice is published in the *State Register* or the Notice of Hearing or Notice of Intent to Adopt Rules Without a Hearing is published in the *State Register*. Any written material received by the State Department of Human Services shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Eleanor Weber, Assistant Director

Department of Human Services

Mental Health Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families

NOTICE IS HEREBY GIVEN that the State Department of Human Services is seeking information or opinions from sources outside the agency in preparing to propose the adoption of the permanent rule governing grants for community-based mental health services for children with severe emotional disturbance and their families. The adoption of the permanent rule is authorized by *Minnesota Statutes*, section 245.4886, which requires the commissioner to establish a statewide program to assist counties in providing services to children with severe emotional disturbance, and their families. *Minnesota Statutes*, section 245.4886 is part of the Minnesota Comprehensive Children's Mental Health Act, *Minnesota Statutes*, sections 245.487 to 245.4888.

The Department's adopted emergency rule governing grants for community-based mental health services for children with severe emotional disturbance and their families, published at 16 S.R. 1591, became effective December 27, 1991 and will remain in effect until the promulgation of the Department's permanent rule.

The State Department of Human Services requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to: Stephanie Schwartz, Rules and Bulletins Division, Minnesota Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816. Oral statements will be received during regular business hours over the telephone at (612) 297-4302 and in person at the above address.

All statements of information and opinions shall be accepted until further notice is published in the *State Register* or the Notice of Hearing or Notice of Intent to Adopt Rules Without a Hearing is published in the *State Register*. Any written material received by the State Department of Human Services shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Stephanie L. Schunitz
Rules and Bulletins Division

Department of Labor and Industry

Workers' Compensation Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Amendment to Rule Governing Compensation and Rehabilitation

NOTICE IS HEREBY GIVEN that the State Department of Labor and Industry is seeking information or opinions from sources outside the agency in preparing to propose the amendment of the rule governing compensation and rehabilitation particularly with

10. A Notice of Appearance must be filed with the administrative law judge identified above within 20 days following receipt of the Notice by any person intending to appear at the hearing as a party.

11. In accordance with the provisions of *Minnesota Statutes* § 14.61, the final decision of the Commissioner in this proceeding will not be made until the Report of the Administrative Law Judge has been made available to the parties in this proceeding for at least 10 days. Any party adversely affected by the Report of the Administrative Law Judge has the right to file exceptions and present arguments to the Commissioner. Any exceptions or arguments must be submitted in writing and filed with the Commissioner of Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440, within 10 days of the receipt of the Administrative Law Judge's Report.

Dated: 23 January 1992

Marlene E. Marschall
Commissioner of Health

Department of Human Services

Mental Health Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rules Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families, and Governing Grants for Adult Community Support and Case Management Services for Persons with Serious and Persistent Mental Illness

NOTICE IS HEREBY GIVEN that the State Department of Human Services is seeking information or opinions from sources outside the agency in preparing to propose the adoption of the permanent rule governing two types of grants: Grants for community-based mental health services for children with severe emotional disturbance and their families, and grants for adult community support and case management services for persons with serious and persistent mental illness. The adoption of the permanent rule is authorized by *Minnesota Statutes*, sections 245.4886, which requires the commissioner to establish a statewide program to assist counties in providing services to children with severe emotional disturbance and their families, and 256E.12, which requires the commissioner to establish a statewide program to assist counties in providing services to persons with serious and persistent mental illness. *Minnesota Statutes*, section 245.4886 is part of the Minnesota Comprehensive Children's Mental Health Act, *Minnesota Statutes*, sections 245.487 to 245.4888. *Minnesota Statutes*, section 256E.12 is part of the Community Social Services Act, *Minnesota Statutes*, sections 256E.01 to 256E.12.

The Department's adopted emergency rule governing grants for community-based mental health services for children with severe emotional disturbance and their families, published at 16 S.R. 1591, became effective December 27, 1991 and will remain in effect until the promulgation of the Department's permanent rule.

The State Department of Human Services requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to: Stephanie Schwartz, Rules and Bulletins Division, Minnesota Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota 55155-3816. Oral statements will be received during regular business hours over the telephone at (612) 297-4302 and in person at the above address.

All statements of information and opinions shall be accepted until further notice is published in the *State Register* or the Notice of Hearing or Notice of Intent to Adopt Rules Without a Hearing is published in the *State Register*. Any written material received by the State Department of Human Services shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Dated: 27 January 1992

Stephanie Schwartz
Rules Division

Department of Jobs and Training

Notification of Public Hearing on the State Delivery Plan for FY 1992 Minnesota Weatherization Assistance Plan for Low-Income Persons Program Grant

The United States Department of Energy requires that the State of Minnesota, through the Department of Jobs and Training, conduct a public hearing on the state Delivery Plan for the FY 1992 Weatherization Assistance for Low-Income Persons Program grant. Notice

Emergency Rules

Proposed Emergency Rules

According to Minn. Stat. of 1984, §§14.29-14.30, state agencies may propose adoption of emergency rules if: 1) expressly required; 2) authorized by statute; or 3) if the manner permitted by a directive (given by statute, federal law or court order) does not allow for compliance with sections 14.14-14.28. The agency must, however, publish a notice of intent to adopt emergency rules, along with the rules themselves, in the *State Register*. The notice must advise the public:

1) that a free copy of the proposed emergency rule is available upon request from the agency;
2) that notice of the date that the rule is submitted to the attorney general will be mailed to persons requesting notification;
3) that the public has at least 25 days after publication of the proposed emergency rule to submit data and views in writing; and
4) that the emergency rule may be modified if the data and views submitted support such modification.

Adopted Emergency Rules

Emergency rules take effect five working days after approval by the attorney general, and after compliance with Minn. Stat. §§14.29-14.365. As soon as possible, emergency rules are published in the *State Register* in the manner provided for in section 14.18.

Emergency rules are effective for the period stated in the notice of intent to adopt emergency rules. This may not exceed 180 days.

Continued/Extended Emergency Rules

Adopted emergency rules may be continued in effect (extended) for an additional 180 days. To do this, the agency must give notice by: 1) publishing notice in the *State Register*: and 2) mailing the same notice to all persons who requested notification on rulemaking. No emergency rule may remain in effect 361 days after its original effective date. At that point, permanent rules adopted according to Minn. Stat. 14.14-14.28 supercede emergency rules.

Department of Human Services

Notice of Continuation of Emergency Rule Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and Their Families

NOTICE IS HEREBY GIVEN that the State Department of Human Services is continuing the above-entitled emergency rules in effect for an additional 180 days in accordance with *Minnesota Statutes*, section 14.35.

The notice adopting the emergency rules was published at *State Register*, Volume 16, Number 27, pages 1591-1592, December 30, 1991 (16 S.R. 1591). The rules became effective December 27, 1991 and are scheduled to expire June 23, 1992. This notice of continuation will extend the effective life of the above-entitled rules through December 20, 1992.

Dated: 13 May 1992

Natalie Haas Steffen
Commissioner

Official Notices

Pursuant to the provisions of Minnesota Statutes § 14.10, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Agriculture

Minnesota Rural Finance Authority

Notice of Public Hearing on the Issuance of an Agricultural Development Revenue Bond Under *Minnesota Statutes*, Chapter 41C

NOTICE IS HEREBY GIVEN that a public hearing will be held on June 9, 1992, at 9 a.m. in Room 145 Department of Agriculture Building, 90 West Plato Boulevard, Saint Paul, Minnesota, on a proposal that the Minnesota Rural Finance Authority (the Authority) issue its revenue bond under *Minnesota Statutes*, Chapter 41C, in order to finance the purchase of farmland and to make building repairs located in Section 18 Cerro Gordo Township, Lac Qui Parle County, Minnesota on behalf of Jon Olson, a single person (the Borrowers). The maximum aggregate face amount of the proposed bond issue is $50,000. The revenue bond will be a limited obligation of the Authority, payable solely from the revenue pledged to the payment thereof. No holder of such revenue bond will ever have the

unable to pay the cost of treatment because of a lack of available income. The arrangements include referral to appropriate agencies which have financial resources to pay for medically indicated treatment such as private health insurance companies, medical assistance, Children's Health Plan, and Services for Children with Handicaps.

Subp. 4. **Registry of cases.** The department shall maintain a registry of all diagnosed cases of hemoglobinopathy, phenylketonuria ~~and other metabolic diseases causing mental retardation~~, galactosemia, hypothyroidism, and congenital adrenal hyperplasia reported to the department. The registry shall be updated not more often than annually by direct contact with the patient to determine their address and their need for medical treatment services, educational materials and counseling related to their metabolic disease. The registry shall include the following minimum data on each patient:

[For text of items A to I, see M.R.]

[For text of subp 5, see M.R.]

REPEALER. *Minnesota Rules*, part 4615.0755, subparts 4 and 7, are repealed.

Department of Human Services

Proposed Permanent Rules Relating to State Grants for Mental Health Services

Notice of Intent to Adopt Rules Without a Public Hearing and Notice of Intent to Adopt Rules With a Public Hearing if Twenty-five or More Persons Request a Hearing

NOTICE IS HEREBY GIVEN that the State Department of Human Services proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in *Minnesota Statutes*, sections 14.22 to 14.28. The specific statutory authority to adopt the rule is found in *Minnesota Statutes*, sections 245.484, which requires the commissioner to adopt permanent rules "as necessary to carry out" the Minnesota Comprehensive Adult Mental Health Act and the Minnesota Comprehensive Children's Mental Health Act; 245.4886, which requires the commissioner to establish a statewide program to assist counties in providing services to children with severe emotional disturbance and their families; and 256E.12, which requires the commissioner to establish a statewide program to assist counties in providing services to persons with serious and persistent mental illness.

Persons interested in this rule shall have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule and comment is encouraged. The 30-day comment period ends at 4:30 p.m. on August 19, 1992. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. The 30-day comment period ends at 4:30 p.m. on August 19, 1992. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, section 14.131 to 14.20. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON AUGUST 31, 1992, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between August 20, 1992 and August 28, 1992 at (612) 296-7454.

Persons who wish to submit comments or a written request for a public hearing must be submit such comments or requests to: Eleanor Weber, Minnesota Department of Human Services, Rules and Bulletins Division, 444 Lafayette Road, St. Paul, Minnesota 55155-3816.

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A free copy of this rule is available upon request for your review from Nancy Bishop at the address and telephone number above.

A copy of the proposed rule may be viewed at any of the county welfare or human service agencies in the State of Minnesota.

Proposed parts 9535.1700 to 9535.1760 establish standards for receipt and distribution of state grants to counties for two types of mental health services: community-based mental health services for children with severe emotional disturbance and their families, and community support and case management services for adults with serious and persistent mental illness. The proposed rule will affect counties and contracting service providers, as well as clients of mental health services.

The proposed rule will establish: eligibility to receive grants; funding criteria for grants; criteria for grant applications, the use of grant funds, and grant distributions; budget requirements for counties; county fiscal reporting requirements; that counties will receive

grant funds quarterly; criteria for county disposal of revenues attributable to services specified in the grant applications exceeding the amount of the budget, and for termination and repayment of funds; that the commissioner may reallocate returned or unused funds; criteria for counties to amend budgets; opportunities for counties to apply for grants for special projects; and criteria for maintenance and retention of required records and data, and the commissioner's access to them.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from Nancy Bishop at the address and telephone number above.

Adoption of these rules will not result in additional spending by local public bodies. A fiscal note prepared according to the requirements of *Minnesota Statutes*, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Nancy Bishop at the address and telephone number above.

If no hearing is required upon adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Eleanor Weber at the address above.

Dated: 12 June 1992

State of Minnesota

Natalie Haas Steffen
Commissioner

Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer than Twenty-Five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitle matter will be held in Rooms 1A and 1B at the Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota on August 31, 1992 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between August 20, 1992 and August 28, 1992 at (612) 296-7454.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Jon L. Lunde, Administrative Law Judge, Office of Administrative Hearings, 100 Washington Square #1700, Minneapolis, Minnesota 55401-2138; telephone (612) 341-7645, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. Any written materials or responses must be received at the office no later than 4:30 p.m. on the final day. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have five business days to respond in writing to any new information submitted during the comment period. During the five-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the five-day period. Any written materials or responses must be received at the office no later than 4:30 p.m. on the final day. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, sections 14.15 and 14.50. The rule hearing is governed by *Minnesota Statutes*, sections 14.14 to 14.20 and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Proposed parts 9535.1700 to 9535.1760 establish standards for receipt and distribution of state grants to counties for two types of mental health services: community-based mental health services for children with severe emotional disturbance and their families,

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and community support and case management services for adults with serious and persistent mental illness. The proposed rule will affect counties and contracting service providers, as well as clients of mental health services.

The proposed rule will establish: eligibility to receive grants; funding criteria for grants; criteria for grant applications, the use of grant funds, and grant distributions; budget requirements for counties; county fiscal reporting requirements; that counties will receive grant funds quarterly; criteria for county disposal of revenues attributable to services specified in the grant applications exceeding the amount of the budget, and for termination and repayment of funds; that the commissioner may reallocate returned or unused funds; criteria for counties to amend budgets; opportunities for counties to apply for grants for special projects; and criteria for maintenance and retention of required records and data, and the commissioner's access to them.

The agency's authority to adopt the proposed rules is contained in *Minnesota Statutes*, sections 245.484, which requires the commissioner to adopt permanent rules "as necessary to carry out" the Minnesota Comprehensive Adult Mental Health Act and the Minnesota Comprehensive Children's Mental Health Act; 245.4886, which requires the commissioner to establish a statewide program to assist counties in providing services to children with severe emotional disturbance and their families; and 256E.12, which requires the commissioner to establish a statewide program to assist counties in providing services to persons with serious and persistent mental illness. Adoption of these rules will not result in additional spending by local public bodies. A fiscal note prepared according to the requirements of *Minnesota Statutes*, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Nancy Bishop, Minnesota Department of Human Services, Rules and Bulletins Division, 444 Lafayette Road, St. Paul, Minnesota 55155-3816, (612) 296-7454.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Nancy Bishop at the address above. This rule is available for viewing at each of the county welfare or human service agencies in the State of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact Mary Jo Verschay, Minnesota Department of Human Services, Mental Health Division, 444 Lafayette Road, St. Paul, Minnesota 55155-3828, (612) 297-2831.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a **STATEMENT OF NEED AND REASONABLENESS** is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the **STATEMENT OF NEED AND REASONABLENESS** may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Lobbyists must register with the State Ethical Practices Board. Questions should be directed to the Ethical Practices Board, 1st Floor, Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55101, telephone (612) 296-5148.

Dated: 12 June 1992

Natalie Haas Steffen
Commissioner

Rules as Proposed (all new material)

9535.1700 PURPOSE.

Parts 9535.1700 to 9535.1760 establish standards for the receipt and distribution of state grants allocated under *Minnesota Statutes*, section 245.4886, to assist county boards in the delivery of children's community-based mental health services, and under *Minnesota Statutes*, section 256E.12, to assist county boards in the delivery of adult community support and case management services.

Use of state grants must be in accordance with *Minnesota Statutes*, sections 245.4886 and 256E.12.

9535.1705 DEFINITIONS.

Subpart 1. **Scope.** Unless otherwise defined in this part, the terms used in parts 9535.1700 to 9535.1760 have the meanings given them in *Minnesota Statutes*, sections 245.462 and 245.4871. For the purposes of parts 9535.1700 to 9535.1760, the terms defined in subparts 2 to 4 have the meanings given them.

Subp. 2. **Children's community-based mental health services.** "Children's community-based mental health services" means the services listed in *Minnesota Statutes*, section 245.4886, subdivision 1.

Subp. 3. **County funds.** "County funds" means funds available to a county through county levies, state block grants under *Minnesota*

Statutes, section 256E.06, federal block grants under *Minnesota Statutes*, section 256E.07, family preservation grants under *Minnesota Statutes*, section 256F.05, and state revenues distributed in lieu of property taxes or other revenue sharing.

Subp. 4. **Grant period.** "Grant period" means the time period in the grant application approved by the commissioner.

9535.1710 ELIGIBILITY TO RECEIVE GRANT.

Only county boards that submit and obtain the commissioner's approval for the grant application as required under parts 9535.1700 to 9535.1760 are eligible to receive grants under parts 9535.1700 to 9535.1760.

9535.1715 GRANT APPLICATION.

Subpart 1. **Application for grants.** A county board or two or more county boards jointly applying for a grant under part 9535.1710 shall submit to the commissioner a grant application that includes budget information for the use of the grant funds. The grant application must be completed in the manner prescribed on forms provided by the commissioner. Beginning with calendar years 1994 and 1995, the grant application must be part of the county board's biennial community social services plan, except that any grant application for a special project under part 9535.1730 need not be included in the county board's biennial community social services plan.

Subp. 2. **County board signature or copy of approving resolution.** As evidence of the county board's approval, the grant application submitted to the commissioner by the county board must be:

A. signed by the chair of the county board; or

B. accompanied by a copy of the county board resolution approving the submission.

If two or more county boards jointly apply for a grant, the chair of each county board participating in the joint application shall either sign the grant application or submit a copy of the county board's resolution approving the submission.

9535.1720 FUNDING CRITERIA.

The commissioner shall distribute grants to county boards whose grant applications meet the criteria in items A to E.

A. The grant application must be consistent with the respective mental health component of the county's community social services plan required by *Minnesota Statutes*, section 256E.09, that is approved by the commissioner.

B. For grants to provide children's community-based mental health services, the grant application must describe how the county board is collaborating or will collaborate in the development, funding, and delivery of children's community-based mental health services with other agencies in the local system of care.

C. The grant application must comply with parts 9535.1700 to 9535.1760 and with *Minnesota Statutes*, sections 245.461 to 245.4888.

D. In the grant application submitted to the commissioner according to part 9535.1715, the county board shall agree that:

(1) it considered the advice of the local adult or children's mental health advisory council, or the adult or children's mental health subcommittee of the existing local mental health advisory council when developing the grant application;

(2) it will consider the advice of the local adult or children's mental health advisory council, or the adult or children's mental health subcommittee of the existing local mental health advisory council if the grant application is amended;

(3) services will be provided in accordance with the needs identified in each client's individual or family community support plan;

(4) where available, the following will be used instead of grant funds under parts 9535.1700 to 9535.1760:

(a) medical assistance, under *Minnesota Statutes*, section 256B.0625;

(b) general assistance medical care, under *Minnesota Statutes*, section 256D.03;

(c) the children's health plan, under *Minnesota Statutes*, section 256.936;

(d) the health right plan, under *Minnesota Statutes*, section 256.936;

(e) private insurance and other third-party payors;

(f) client fees, under *Minnesota Statutes*, section 245.481; and

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(g) other funds; and

(5) the cost per unit of service as determined by the commissioner will be comparable to the cost of similar services in the same or similar local trade area. "Local trade area" has the meaning given it in part 9505.0175, subpart 22.

E. The grant application must state that grant funds will only be used for:

(1) the services specified in *Minnesota Statutes*, section 245.4886, and as defined in *Minnesota Statutes*, section 245.4871; or

(2) the services specified in *Minnesota Statutes*, section 256E.12, and as defined in *Minnesota Statutes*, section 245.462; and

(3) other services that:

(a) have minor costs;

(b) are essential for the provision of services specified in *Minnesota Statutes*, section 245.4886 or 256E.12;

(c) cannot be paid for from the funds listed in item D, subitem (4); and

(d) are approved by the commissioner.

If the commissioner determines that a grant application merits funding but does not meet the criteria in parts 9535.1700 to 9535.1760, the commissioner shall specify the conditions the grant application must meet in order to receive the grant.

9535.1725 DISTRIBUTION FORMULA.

At or before the beginning of the grant period, the commissioner shall use the formulas in items A to F to distribute grants under parts 9535.1700 to 9535.1760 to county boards whose grant applications meet the requirements in parts 9535.1700 to 9535.1760.

A. Within the limits of the appropriations under *Minnesota Statutes*, section 245.4886 or 256E.12, the commissioner shall allocate to each county board whose grant application is approved under part 9535.1720, the greater of the following:

(1) an annual allocation equal to the county's allocation for the preceding year, excluding any supplemental funds reallocated from other counties, plus a cost of living increase based on the legislative appropriation for that purpose;

(2) at least $22,000 annually for children with severe emotional disturbance, or at least $41,000 annually for adults with serious and persistent mental illness; or

(3) $2.25 per capita for children with severe emotional disturbance, or $2.10 per capita for adults with serious and persistent mental illness. Per capita must be based on the respective county adult or child population as determined by the most recent data of the state demographer.

B. The amount under item A, subitem (1), does not include special project funds under part 9535.1730 unless the commissioner determines a special project is more appropriately funded as part of the ongoing allocation under this part.

C. The commissioner shall increase the amounts in item A, subitems (2) and (3), to the extent funds are available, to enable more services to be provided as required by *Minnesota Statutes*, sections 245.461 to 245.4888.

D. If the appropriations under this part are decreased, then the per-county allocations in item A must be decreased in the same proportion as the decrease in the appropriation and must not be adjusted to reflect new data of the state demographer.

E. If the appropriations under this part remain the same as the appropriations in the preceding year, the per-county allocations in item A must be the same as those in the preceding year and must not be adjusted to reflect new data of the state demographer.

F. Two or more county boards that apply jointly for a grant shall receive a multicounty grant equal to the sum of the individual county board allocations in items A to E. Actual utilization of grants by each participating county board may be different from the individual county board allocation in items A to E if the county boards demonstrate to the commissioner that the differences are based on differing service needs of each county.

9535.1730 FUNDING SPECIAL PROJECTS.

In addition to grants distributed under part 9535.1725, a county board may apply to the commissioner for grants for special projects designed to help children with severe emotional disturbance to function and remain with their families in the community and to help adults with serious and persistent mental illness to function and remain in the community. Special projects must provide at least one of the services under *Minnesota Statutes*, section 245.4886, subdivision 1, or 256E.12, subdivision 1, unless the legislature enacts appropriations under *Minnesota Statutes*, section 245.4886 or 256E.12, for a different service.

Within the limits of appropriations available, the commissioner may award grants to county boards for special projects the commissioner believes will help children with severe emotional disturbance to function and remain with their families in the community and will help adults with serious and persistent mental illness to function and remain in the community.

9535.1735 BUDGET REQUIREMENTS.

Subpart 1. **Estimated budget required.** When applying for a grant, the county board shall submit to the commissioner a budget covering all children's community-based mental health services or all adult community support and case management services to be provided by the county board, its contracting service providers, and any subcontracting service providers.

Additionally, the county board's budget must show the total projected revenue from the following sources:

A. grant funds under parts 9535.1700 to 9535.1760;

B. county funds;

C. medical assistance;

D. general assistance medical care;

E. client fees;

F. private insurance and other third-party payors;

G. other public agencies, including schools, colleges, health departments, and corrections;

H. other sources;

I. the children's health plan, under *Minnesota Statutes*, section 256.936; and

J. the health right plan, under *Minnesota Statutes*, section 256.936.

Subp. 2. **Submittal of contracting service provider budgets.** The county board shall submit to the commissioner the name, budgeted expenditures, budgeted revenues, and a list of services provided by the county board's contracting service providers or subcontracting service providers.

Subp. 3. **Provider contracts and subcontracts.** All contracts for services between a county board and a service provider, and all contracts for services between a contracting service provider and a subcontracting service provider must be in accordance with parts 9550.0010 to 9550.0092, governing the administration of community social services, and parts 9535.1700 to 9535.1760.

Subp. 4. **Joint applications.** When two or more county boards apply jointly for grants, they shall designate which county board will:

A. act as the host county to receive the grant; and

B. designate a contact person.

County boards applying jointly shall agree by resolution on the assignment of responsibilities in parts 9535.1700 to 9535.1760.

Subp. 5. **Matching funds required for grants for adult community support and case management services.** When applying for a grant for adult community support and case management services, the county board shall provide matching funds of at least ten percent of the budget estimated under subpart 1. For purposes of this subpart, "matching funds" means the revenue from the sources listed in subpart 1, items B to H.

9535.1740 PAYMENT TO COUNTY BOARD.

Subpart 1. **Fiscal reports.** The commissioner shall specify requirements for fiscal reporting under *Minnesota Statutes*, section 256.01, subdivision 2, clause (17).

Additionally, if the commissioner requests, the county board shall submit, by service provider, a year-end summary of the total expenditures and the total revenues by revenue sources listed in part 9535.1735, subpart 1.

Subp. 2. **Grant payments.** The commissioner shall make quarterly grant payments under this part to a county board whose grant application is approved under parts 9535.1710 to 9535.1760. The commissioner shall make an initial advance in an amount sufficient to cover the time period from the beginning of the grant period to the next scheduled payment. The commissioner shall make subsequent quarterly grant payments on a reimbursement basis for actual expenditures reported by a county board to the commissioner. The commissioner shall adjust the quarterly grant payments for anticipated spending patterns and additional income according to subpart 3.

Total payments for a grant period must not exceed the lesser of the following, made according to a budget approved under parts 9535.1710 to 9535.1760:

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A. the grant award;

B. 90 percent of actual expenditures under *Minnesota Statutes*, section 256.12; or

C. 100 percent of actual expenditures under *Minnesota Statutes*, section 245.4886.

Subp. 3. **Disposition of additional income.** If a county board, its contracting service providers, or subcontracting service providers receive revenue for the services specified in the grant application approved by the commissioner exceeding the amount of revenue estimated in the budget, the county board shall:

A. use the additional income to provide additional children's community-based mental health services, or adult community support and case management services within the grant period in which the additional income is received;

B. use the additional income in place of the county board funds committed to services in the county board's approved budget, if the county board's total mental health expenditure, after the reduction in county funds, complies with the maintenance of effort provisions in *Minnesota Statutes*, section 245.48; or

C. notify the commissioner on an annual basis of the amount of actual excess revenue and request the commissioner to authorize the transfer of some or all of these excess funds to the subsequent grant period. The commissioner shall authorize the transfer or adjust the subsequent payment by an amount equal to the excess revenue.

9535.1745 TERMINATION AND REPAYMENT OF FUNDS.

If the commissioner determines that state grants for services allocated to the county board under *Minnesota Statutes*, section 245.4886 or 256E.12, are not being used as specified in a county board's approved grant application, the commissioner may terminate all or part of the grant funds and may require repayment according to *Minnesota Statutes*, section 245.483.

9535.1750 REALLOCATION OF GRANT FUNDS.

The commissioner may reallocate returned or unused grant funds to other eligible county boards as a supplemental allocation under parts 9535.1700 to 9535.1760, or for special projects under part 9535.1730. For purposes of this part, "unused grant funds" means:

A. grant funds not awarded to a county board; or

B. grant funds awarded to a county board but not used.

9535.1755 BUDGET AMENDMENTS.

A county board that finds it necessary to amend the budget approved by the commissioner shall follow the procedures for amending the adult mental health component of a county's community social services plan under *Minnesota Statutes*, section 245.478, subdivision 9, or the children's mental health component of a county's community social services plan under *Minnesota Statutes*, section 245.4888, subdivision 9. The commissioner shall give approval if a county board demonstrates a need to change the services funded under *Minnesota Statutes*, section 245.4886 or 256E.12, based on an assessment of unmet needs of children with severe emotional disturbance and their families or adults with serious and persistent mental illness, and if all the requirements of *Minnesota Statutes*, sections 245.461 to 245.4888, and 256E.081 are met.

9535.1760 RECORDS.

Subpart 1. **Maintenance of financial records.** The county board, its contracting service providers, and any subcontracting service providers shall maintain financial records using generally accepted accounting principles so that:

A. expenditures for services funded under parts 9535.1700 to 9535.1760 can be easily compared to the county board's approved budget for those services;

B. all sources of income can be readily identified; and

C. documentation is available for all expenditures.

Budget records must include copies of all fiscal reports submitted to meet state or federal requirements.

Subp. 2. **Maintenance of service records and required reporting.** The county board, its contracting service providers, and any subcontracting service providers shall maintain data specified by the commissioner on services funded under parts 9535.1700 to 9535.1760, so the commissioner can determine the effectiveness of the services in achieving the purpose specified under *Minnesota Statutes*, sections 245.461 to 245.4888.

The county board must submit periodic reports in the manner prescribed and on forms provided by the commissioner.

Subp. 3. **Availability and access.** The county board, its contracting service providers, and any subcontracting service providers shall upon request make all budget, expenditure, and service records pertaining to the provision of services funded under parts 9535.1700 to 9535.1760 available to the commissioner for audit purposes.

The commissioner shall be given access without prior notice to the physical plant and grounds of contracting service providers and subcontracting service providers and to documents and information relevant to services funded under parts 9535.1700 to 9535.1760.

The commissioner shall be given access whenever the commissioner deems necessary. The requirements of *Minnesota Statutes*, chapter 13, pertaining to government data practices must be followed.

Additionally, the county board, its contracting service providers, and any subcontracting service providers shall allow the commissioner to make photocopies, photographs, and audio and videotape recordings at the commissioner's expense and in accordance with *Minnesota Statutes*, chapter 13.

Subp. 4. **Retention of records.** The county board, its contracting service providers, and any subcontracting service providers shall retain a copy of the records required under subpart 1 for three years plus the current year unless an audit requires a longer retention period. The records may be microfilmed at the end of the third year after the record was made. For purposes of this subpart, "copy of the records" means a photocopy or a computer-generated reproduction.

REPEALER. *Minnesota Rules*, parts 9535.0100; 9535.0200; 9535.0300; 9535.0400; 9535.0500; 9535.0600; 9535.0700; 9535.0800; 9535.0900; 9535.1000; 9535.1100; 9535.1200; 9535.1300; 9535.1400; 9535.1500; and 9535.1600, are repealed.

Adopted Rules

The adoption of a rule becomes effective after the requirements of Minn. Stat. §14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. §14.33 and upon the approval of the Revisor of Statutes as specified in §14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under §14.18.

Department of Revenue

Adopted Permanent Rules Relating to Taxation; Income; Air Carriers

The rules proposed and published at *State Register*, Volume 16, Number 46, pages 2438-2441, May 11, 1992 (16 SR 2438), are adopted as proposed.

Transportation Regulation Board

Adopted Permanent Rules Relating to Practice and Procedure

The rules proposed and published at *State Register*, Volume 15, Number 38, pages 2096-2104, March 18, 1991 (15 SR 2096); Volume 15, Number 52, pages 2732-2734, June 24, 1991 (15 SR 2732); and Volume 16, Number 6, page 218, August 5, 1991 (16 SR 218), are adopted with the following modifications:

Rules as Adopted

8920.0100 DEFINITIONS.

Subp. 3. **Complainant.** "Complainant" means a person who complains formally or informally ~~that~~ of a person who violates (1) a board rule, (2) a general order of the board, or that (3) an action or failure to act by the board, whether past, present, or reasonably certain to occur as determined by the board, allegedly violates a law governing the activities of the board or under which the board has jurisdiction or allegedly violates a board rule or order.

Subp. 4. **Filed.** "Filed" means deposit in the mail as shown by the postmark.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Department of Human Services Rules Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families, and Governing Grants for Community Support and Case Management Services for Adults with Serious and Persistent Mental Illness

ORDER FOR HEARING

IT IS ORDERED THIS 12th day of June, 1992, that a public hearing on the proposed rules captioned above be held on August 31, 1992 in Rooms 1A and 1B at the Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota commencing at 9:00 a.m. and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that notice of said hearing be given to all persons who have registered their names with the Department of Human Services for that purpose and be published in the State Register.

STATE OF MINNESOTA

George Steffen

for NATALIE HAAS STEFFEN
Commissioner

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of Proposed Department of Human Services Rules Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and Their Families, and Governing Grants for Community Support and Case Management Services for Adults with Serious and Persistent Mental Illness, Minnesota Rules, parts 9535.1700 to 9535.1760

FISCAL NOTE

I. **NET FISCAL IMPACT OF RULE***

	Year 1	Year 2
LOCAL	-0-	-0-
STATE	-0-	-0-

*See Part III for Methodology and Summary Explanation of Costs

II. **BACKGROUND INFORMATION ON RULE AND FUNDING SOURCES**

A. Purpose of Proposed Rule

This proposed permanent rule establishes standards for the receipt and distribution of state grants for two types of mental health services: community-based mental health services for children with severe emotional disturbance and their families, and adult community support and case management services for persons with serious and persistent mental illness.

The purpose of the proposed rule is to establish (1) eligibility to receive grants; (2) funding criteria for grants; (3) criteria for grant applications; (4) criteria for use of grant funds; (5) criteria for grant distributions; (6) budget requirements for counties; (7) county fiscal reporting requirements; (8) that counties will receive grant funds quarterly; (9) criteria for county disposal of revenues attributable to services specified in the grant application exceeding the amount in the budget; (10) criteria for termination and repayment of funds; (11) that the commissioner may reallocate returned or unused funds; (12) criteria for counties to amend budgets; (13) opportunities for counties to apply for grants for special projects; and (14) criteria for maintenance and retention of required records and data, and the commissioner's access to these records and data.

B. Statutory Authority

Minnesota Statutes, section 245.4886, subdivision 1 (Laws of Minnesota 1991, chapter 292, article 6, section 26) requires the commissioner to "establish a statewide program to assist counties in providing services to children with severe emotional disturbance . . . and their families." It also requires the commissioner to "make grants to counties to establish, operate, or contract with private providers" to provide specific children's community-based mental health services. Minnesota Statutes, section 245.4886, subdivision 2 authorizes the commissioner to adopt emergency and permanent rules to "govern grant applications, approval of applications, allocation of grants, and maintenance of financial statements by grant recipients." The Department has promulgated an emergency rule, which became effective December 27, 1991 and which will expire on December 21, 1992.

Minnesota Statutes, section 256E.12, subdivision 1 requires the commissioner to "establish a statewide program to assist counties in providing services to persons with serious and persistent mental illness . . . ." It also requires the commissioner to "make grants to counties to establish, operate, or contract with private providers" to provide services that will "help persons with serious and persistent mental illness remain and function in their own communities." Minnesota Statutes, sections 245.484 and 256E.12, subdivision 3 provide rulemaking authority, and the latter statute requires rules to "govern grant applications, approval of applications, allocation of grants, and maintenance of financial statements by grant recipients."

C. Reasons for Adoption of Rule

This rule is necessary to comply with Minnesota Statutes, sections 245.484, 245.4886 and 256E.12. That part of the rule governing grants for community-based mental health services for children with severe emotional disturbance and their families converts Emergency Rule 78 (Minnesota Rules, parts 9535.1700 to 9535.1765 [Emergency]) into a permanent rule. That part of the rule governing grants for community support and case management services for adults with serious and persistent mental illness revises and updates current Rule 14 (Minnesota Rules, parts 9535.0100 to 9535.1600).

D. Background and Funding Source

The funding source for this rule is state appropriations.

Regarding grants for community-based mental health services for children, in addition to the current base funding of $1,200,000 per year for family community support services (one type of children's community-based mental health services), the 1991 legislature appropriated $290,000 for FY '92 (for a total of $1,490,000 for FY '92) and $1,160,000 for FY '93 (for a total of $2,360,000 for FY '93). For case management services (another type of children's community-based mental health services), the 1991 legislature appropriated $250,000 for FY '92 and $1,000,000 for FY '93.

Regarding grants for community support and case management services for adults, in addition to the current base funding of $12,368,000, the 1991

legislature appropriated $151,000 for FY '92 (for a total of $12,519,000 for FY '92) and $538,000 for FY '93 (for a total of $12,906,000 for FY '93).

The 1992 legislature reviewed all appropriations in light of the state's current budget deficit. Despite the deficit, there were no cuts in Rule 14/78 grants. In fact, the Department's internal budget preparation process for the 1992 legislative session included a $2,000,000 increase in children's mental health grants until the final round of the Governor's budget decisions.

The legislature and the Governor have shown consistent support for community-based mental health services. It is anticipated that the appropriations for the next two years will be at least at the current levels.

III. METHODOLOGY AND EXPLANATION OF COSTS

The Department projects that this rule will have no fiscal impact on the state or the counties.

The rule governs grants that will be distributed to counties, and simply supplies a mechanism to provide counties with the legislative appropriation for mental health services. Because grants for both types of mental health services have already been distributed, the mechanism to provide counties with the legislative appropriation is already in place, both at the Department level and at the county level.

In the instance where counties must submit periodic reports to the commissioner (see part 9535.1760, subpart 2), the cost to prepare and provide these reports is an eligible expense for grant funds already distributed.

Dated: 6-12-92

for George Jr. Steffen

NATALIE HAAS STEFFEN
Commissioner

STATE OF MINNESOTA

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AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Nancy Bishop, being sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the State Department of Human Services rulemaking mailing list is accurate, complete, and current as of this 15th day of July, 1992.

That on the 15th day of July, 1992, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt a Rule without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Nancy L. Bishop

Subscribed and sworn to before me

this 17th day of July, 1992

Sandra Burge

SANDRA BURGE
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My Commission Expires 2-2-95

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NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND NOTICE OF INTENT TO ADOPT A RULE WITH A PUBLIC HEARING IF TWENTY-FIVE OR MORE PERSONS REQUEST A HEARING

Notice is hereby given that the State Department of Human Services proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in Minnesota Statutes, section 14.22 to 14.28. The specific statutory authority to adopt the rule is found in Minnesota Statutes, sections 245.484, which requires the commissioner to adopt permanent rules "as necessary to carry out" the Minnesota Comprehensive Adult Mental Health Act and the Minnesota Comprehensive Children's Mental Health Act; 245.4886, which requires the commissioner to establish a statewide program to assist counties in providing services to children with severe emotional disturbance and their families; and 256E.12, which requires the commissioner to establish a stateside program to assist counties in providing services to persons with serious and persistent mental illness.

Persons interested in this rule shall have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule and comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a

sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, section 14.131 to 14.20. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON AUGUST 31, 1992, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between August 20, 1992 and August 28, 1992 at (612) 296-7454.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to: Eleanor Weber, Minnesota Department of Human Services, Rules and Bulletins Division, 444 Lafayette Road, St. Paul, Minnesota 55155-3816.

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on August 19, 1992.

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A free copy of this rule is available upon request for your review from Nancy Bishop at the address and telephone number above.

A copy of the proposed rule may be viewed at any of the county welfare or human service agencies in the State of Minnesota.

Proposed parts 9535.1700 to 9535.1760 establish standards for receipt and distribution of state grants to counties for two types of mental health services: community-based mental health services for children with severe emotional disturbance and their families, and community support and case management services for adults with serious and persistent mental illness. The proposed rule will affect counties and contracting service providers, as well as clients of mental health services.

The proposed rule will establish: eligibility to receive grants; funding criteria for grants; criteria for grant applications, the use of grant funds, and grant distributions; budget requirements for counties; county fiscal reporting requirements; that counties will receive grant funds quarterly; criteria for county disposal of revenues attributable to

services specified in the grant applications exceeding the amount of the budget, and for termination and repayment of funds; that the commissioner may reallocate returned or unused funds; criteria for counties to amend budgets; opportunities for counties to apply for grants for special projects; and criteria for maintenance and retention of required records and data, and the commissioner's access to them.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from Nancy Bishop at the address and telephone number above.

Adoption of these rules will not result in additional spending by local public bodies. A fiscal note prepared according to the requirements of Minnesota Statutes, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Nancy Bishop at the address and telephone number above.

If no hearing is required upon adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Eleanor Weber at the address above.

State of Minnesota

Dated: 6/12/92

NATALIE HAAS STEFFEN
Commissioner

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NOTICE OF HEARING AND NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in Rooms 1A and 1B at the Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota on August 31, 1992 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between August 20, 1992 and August 28, 1992 at (612) 296-7454.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Jon L. Lunde, Administrative Law Judge, Office of Administrative Hearings, 100 Washington Square #1700, Minneapolis, Minnesota 55401-2138; telephone (612) 341-7645, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the

record be kept open for a longer period not to exceed 20 calendar days. Any written materials or responses must be received at the office no later than 4:30 p.m. on the final day. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have five business days to respond in writing to any new information submitted during the comment period. During the five-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the five-day period. Any written materials or responses must be received at the office no later than 4:30 p.m. on the final day. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, sections 14.15 and 14.50. The rule hearing is governed by Minnesota Statutes, sections 14.14 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Proposed parts 9535.1700 to 9535.1760 establish standards for receipt and distribution of state grants to counties for two types of mental health services: community-based mental health services for children with severe emotional disturbance and their families, and community support and case management services for adults with serious and persistent mental illness. The proposed rule will affect counties and contracting service providers, as well as clients of mental health services.

The proposed rule will establish: eligibility to receive grants; funding criteria for grants; criteria for grant applications, the use of grant funds, and grant distributions; budget requirements for counties; county fiscal reporting requirements; that counties will receive grant funds quarterly; criteria for county disposal of revenues attributable to services specified in the grant applications exceeding the amount of the budget, and for termination and repayment of funds; that the commissioner may reallocate returned or unused funds; criteria for counties to amend budgets; opportunities for counties to apply for grants for special projects; and criteria for maintenance and retention of required records and data, and the commissioner's access to them.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, sections 245.484, which requires the commissioner to adopt permanent rules "as necessary to carry out" the Minnesota Comprehensive Adult Mental Health Act and the Minnesota Comprehensive Children's Mental Health Act; 245.4886, which requires the commissioner to establish a statewide program to assist counties in providing services to children with severe emotional disturbance and their families; and 256E.12, which requires the commissioner to establish a statewide program to assist counties in providing services to persons with serious and persistent mental illness. Adoption of these rules will not result in additional spending by local public bodies. A fiscal note prepared according to the

requirements of Minnesota Statutes, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Nancy Bishop, Minnesota Department of Human Services, Rules and Bulletins Division, 444 Lafayette Road, St. Paul, Minnesota 55155-3816, (612) 296-7454.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Nancy Bishop at the address above. This rule is also available for viewing at each of the county welfare or human service agencies in the State of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact John Zakelj, Minnesota Department of Human Services, Mental Health Division, 444 Lafayette Road, St. Paul, Minnesota 55155-3828, (612) 296-4426.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Lobbyists must register with the State Ethical Practices Board. Questions should be directed to the Ethical Practices Board, 1st Floor, Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone (612) 296-5148.

Date: 6/12/92

for NATALIE HAAS STEFFEN
Commissioner

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CERTIFICATE

I hereby certify that the list of persons, associations and other interested groups who have requested, pursuant to Minnesota Statutes, section 14.14, subdivision la, and 14.22 or 14.30, that their names be placed on the State Department of Human Services rulemaking mailing list is accurate, complete, and current as of this 15th day of July, 1992.

Nancy L. Bishop

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AFFIDAVIT OF MAILING

Nancy Bishop, being first duly sworn, deposes and says:

That on the 15th day of July, 1992, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice by depositing in the State of Minnesota Central Mail System for first class mailing, a copy thereof, properly enveloped, with postage prepaid, to all persons and associations who have requested that their names be placed on file with the Department of Human Services for the purpose of receiving notice of hearing by this Department.

Nancy L. Bishop

Subscribed and sworn to before me

this 17th day of July, 1992

Sandra Burge

SANDRA BURGE
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My Commission Expires 2-2-95

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Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on August 19, 1992.

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

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State of Minnesota

Dated: 6/12/92

NATALIE HAAS STEFFEN
Commissioner

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In the Matter of the Proposed Adoption of Department of Human Services Rules Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families, and Governing Grants for Community Support and Case Management Services for Adults with Serious and Persistent Mental Illness, Minnesota Rules, parts 9535.1700 to 9535.1760

NOTICE OF HEARING AND NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in Rooms 1A and 1B at the Department of Human Services, 444 Lafayette Road, St. Paul, Minnesota on August 31, 1992 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between August 20, 1992 and August 28, 1992 at (612) 296-7454.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Jon L. Lunde, Administrative Law Judge, Office of Administrative Hearings, 100 Washington Square #1700, Minneapolis, Minnesota 55401-2138; telephone (612) 341-7645, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the

record be kept open for a longer period not to exceed 20 calendar days. Any written materials or responses must be received at the office no later than 4:30 p.m. on the final day. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have five business days to respond in writing to any new information submitted during the comment period. During the five-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the five-day period. Any written materials or responses must be received at the office no later than 4:30 p.m. on the final day. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, sections 14.15 and 14.50. The rule hearing is governed by Minnesota Statutes, sections 14.14 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Proposed parts 9535.1700 to 9535.1760 establish standards for receipt and distribution of state grants to counties for two types of mental health services: community-based mental health services for children with severe emotional disturbance and their families, and community support and case management services for adults with serious and persistent mental illness. The proposed rule will affect counties and contracting service providers, as well as clients of mental health services.

The proposed rule will establish: eligibility to receive grants; funding criteria for grants; criteria for grant applications, the use of grant funds, and grant distributions; budget requirements for counties; county fiscal reporting requirements; that counties will receive grant funds quarterly; criteria for county disposal of revenues attributable to services specified in the grant applications exceeding the amount of the budget, and for termination and repayment of funds; that the commissioner may reallocate returned or unused funds; criteria for counties to amend budgets; opportunities for counties to apply for grants for special projects; and criteria for maintenance and retention of required records and data, and the commissioner's access to them.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, sections 245.484, which requires the commissioner to adopt permanent rules "as necessary to carry out" the Minnesota Comprehensive Adult Mental Health Act and the Minnesota Comprehensive Children's Mental Health Act; 245.4886, which requires the commissioner to establish a statewide program to assist counties in providing services to children with severe emotional disturbance and their families; and 256E.12, which requires the commissioner to establish a statewide program to assist counties in providing services to persons with serious and persistent mental illness. Adoption of these rules will not result in additional spending by local public bodies. A fiscal note prepared according to the

requirements of Minnesota Statutes, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Nancy Bishop, Minnesota Department of Human Services, Rules and Bulletins Division, 444 Lafayette Road, St. Paul, Minnesota 55155-3816, (612) 296-7454.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Nancy Bishop at the address above. This rule is also available for viewing at each of the county welfare or human service agencies in the State of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact John Zakelj, Minnesota Department of Human Services, Mental Health Division, 444 Lafayette Road, St. Paul, Minnesota 55155-3828, (612) 296-4426.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Lobbyists must register with the State Ethical Practices Board. Questions should be directed to the Ethical Practices Board, 1st Floor, Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone (612) 296-5148.

Date: 6/12/92

for NATALIE HAAS STEFFEN
Commissioner

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

RECEIVED
92 JUL 21 AM 8:59
ADMINISTRATIVE HEARINGS

In the Matter of the Proposed Adoption of Department of Human Services Rules Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families, and Governing Grants for Community Support and Case Management Services for Adults with Serious and Persistent Mental Illness, Minnesota Rules, parts 9535.1700 to 9535.1760

AFFIDAVIT OF ADDITIONAL MAILING

Nancy Bishop, being first duly sworn, deposes and says:

That on the 15th day of July, 1992, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice by depositing in the State of Minnesota Central Mail System for first class mailing, a copy thereof, properly enveloped, with postage prepaid to the following parties:

- The 87 Minnesota County Human Services Agencies
- Advisory Committee Members
- Chair, Community Mental Health Centers
- State Mental Health Advisory Council and Local Children's Advisory Councils

Nancy L. Bishop

Subscribed and sworn to before me

this 17th day of July, 1992

Sandra Burge

SANDRA BURGE
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My Commission Expires 2-2-95

RECEIVED
92 JUL 21 AM 8:59
ADMINISTRATIVE
HEARINGS

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Rules of the State Department of Human Services Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families, and Governing Grants for Community Support and Case Management Services for Adults with Serious and Persistent Mental Illness, Minnesota Rules, parts 9535.1700 to 9535.1760

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND NOTICE OF INTENT TO ADOPT A RULE WITH A PUBLIC HEARING IF TWENTY-FIVE OR MORE PERSONS REQUEST A HEARING

Notice is hereby given that the State Department of Human Services proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in Minnesota Statutes, section 14.22 to 14.28. The specific statutory authority to adopt the rule is found in Minnesota Statutes, sections 245.484, which requires the commissioner to adopt permanent rules "as necessary to carry out" the Minnesota Comprehensive Adult Mental Health Act and the Minnesota Comprehensive Children's Mental Health Act; 245.4886, which requires the commissioner to establish a statewide program to assist counties in providing services to children with severe emotional disturbance and their families; and 256E.12, which requires the commissioner to establish a stateside program to assist counties in providing services to persons with serious and persistent mental illness.

Persons interested in this rule shall have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule and comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a

sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, section 14.131 to 14.20. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON AUGUST 31, 1992, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between August 20, 1992 and August 28, 1992 at (612) 296-7454.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to: Eleanor Weber, Minnesota Department of Human Services, Rules and Bulletins Division, 444 Lafayette Road, St. Paul, Minnesota 55155-3816.

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on August 19, 1992.

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A free copy of this rule is available upon request for your review from Nancy Bishop at the address and telephone number above.

A copy of the proposed rule may be viewed at any of the county welfare or human service agencies in the State of Minnesota.

Proposed parts 9535.1700 to 9535.1760 establish standards for receipt and distribution of state grants to counties for two types of mental health services: community-based mental health services for children with severe emotional disturbance and their families, and community support and case management services for adults with serious and persistent mental illness. The proposed rule will affect counties and contracting service providers, as well as clients of mental health services.

The proposed rule will establish: eligibility to receive grants; funding criteria for grants; criteria for grant applications, the use of grant funds, and grant distributions; budget requirements for counties; county fiscal reporting requirements; that counties will receive grant funds quarterly; criteria for county disposal of revenues attributable to

services specified in the grant applications exceeding the amount of the budget, and for termination and repayment of funds; that the commissioner may reallocate returned or unused funds; criteria for counties to amend budgets; opportunities for counties to apply for grants for special projects; and criteria for maintenance and retention of required records and data, and the commissioner's access to them.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available upon request from Nancy Bishop at the address and telephone number above.

Adoption of these rules will not result in additional spending by local public bodies. A fiscal note prepared according to the requirements of Minnesota Statutes, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Nancy Bishop at the address and telephone number above.

If no hearing is required upon adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Eleanor Weber at the address above.

State of Minnesota

Dated: 6/12/92

for NATALIE HAAS STEFFEN
Commissioner

RECEIVED
92 JUL 21 AM 8:59
ADMINISTRATIVE
HEARINGS

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of Department of Human Services Rules Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families, and Governing Grants for Community Support and Case Management Services for Adults with Serious and Persistent Mental Illness, Minnesota Rules, parts 9535.1700 to 9535.1760

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PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between August 20, 1992 and August 28, 1992 at (612) 296-7454.

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record be kept open for a longer period not to exceed 20 calendar days. Any written materials or responses must be received at the office no later than 4:30 p.m. on the final day. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have five business days to respond in writing to any new information submitted during the comment period. During the five-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the five-day period. Any written materials or responses must be received at the office no later than 4:30 p.m. on the final day. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, sections 14.15 and 14.50. The rule hearing is governed by Minnesota Statutes, sections 14.14 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

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The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, sections 245.484, which requires the commissioner to adopt permanent rules "as necessary to carry out" the Minnesota Comprehensive Adult Mental Health Act and the Minnesota Comprehensive Children's Mental Health Act; 245.4886, which requires the commissioner to establish a statewide program to assist counties in providing services to children with severe emotional disturbance and their families; and 256E.12, which requires the commissioner to establish a statewide program to assist counties in providing services to persons with serious and persistent mental illness. Adoption of these rules will not result in additional spending by local public bodies. A fiscal note prepared according to the

requirements of Minnesota Statutes, section 3.98, subdivision 2, estimating the fiscal impact of the rule is available upon request from Nancy Bishop, Minnesota Department of Human Services, Rules and Bulletins Division, 444 Lafayette Road, St. Paul, Minnesota 55155-3816, (612) 296-7454.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Nancy Bishop at the address above. This rule is also available for viewing at each of the county welfare or human service agencies in the State of Minnesota.

Additional copies will be available at the hearing. If you have any questions on the content of the rule contact John Zakelj, Minnesota Department of Human Services, Mental Health Division, 444 Lafayette Road, St. Paul, Minnesota 55155-3828, (612) 296-4426.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the secretary of state. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Lobbyists must register with the State Ethical Practices Board. Questions should be directed to the Ethical Practices Board, 1st Floor, Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone (612) 296-5148.

Date: 6/12/92

for NATALIE HAAS STEFFEN
Commissioner

STATE OF MINNESOTA

DEPARTMENT OF HUMAN SERVICES

In the Matter of the Proposed Adoption of the Rule of the State Department of Human Services Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families, and Governing Grants for Community Support and Case Management Services for Adults with Serious and Persistent Mental Illness, Minnesota Rules, parts 9535.1700 to 9535.1760

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

(1) Notice of the Commissioner's intent to adopt the above-entitled rule was published in the State Register on Monday, July 20, 1992 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22, on Friday, July 17, 1992. (2) The statement of need and reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

(4) All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. (5) No requests for a public hearing on the rule were received by the agency. No submissions or comments on the rule were received by the agency. (7) No requests for notice of submission to the attorney general were received by the agency.

Based on the evidence in the record before the agency, I find the following:

That no changes to the rule as proposed and the rule as adopted are necessary. (8) The above-captioned rule is needed and reasonable.

CONCLUSIONS

I hereby conclude that:

1. Any duplication in these rules of language contained in Minnesota Statutes is crucial to the ability of persons affected by the rules to comprehend their meaning and effect.

2. The Department has complied with all applicable provisions of law and rule in the promulgation of these rules.

3. If any finding or part of a finding, above, is properly characterized as a conclusion, it is adopted as a conclusion.

NOW, THEREFORE, IT IS ORDERED that the rule identified as governing Grants for Community-based Mental Health Services for Children with Severe Emotional Disturbance and their Families, and governing Grants for Community Support and Case Management Services for Adults with Serious and Persistent Mental Illness, Minnesota Rules, parts 9535.1700 to 9535.1760 is adopted this 20th day of September, 1992, pursuant to authority vested in me by Minnesota Statutes, sections 245.484, 245.4886, and 256E.12.

(9)

NATALIE HAAS STEFFEN
Commissioner

Department of Human Services

Proposed Permanent Rules Relating to State Grants for Mental Health Services

Rules as Proposed (all new material)

9535.1700 PURPOSE.

Parts 9535.1700 to 9535.1760 establish standards for the receipt and distribution of state grants allocated under Minnesota Statutes, section 245.4886, to assist county boards in the delivery of children's community-based mental health services, and under Minnesota Statutes, section 256E.12, to assist county boards in the delivery of adult community support and case management services.

Use of state grants must be in accordance with Minnesota Statutes, sections 245.4886 and 256E.12.

9535.1705 DEFINITIONS.

Subpart 1. **Scope.** Unless otherwise defined in this part, the terms used in parts 9535.1700 to 9535.1760 have the meanings given them in Minnesota Statutes, sections 245.462 and 245.4871. For the purposes of parts 9535.1700 to 9535.1760, the terms defined in subparts 2 to 4 have the meanings given them.

Subp. 2. **Children's community-based mental health services.** "Children's community-based mental health services" means the services listed in Minnesota Statutes, section 245.4886, subdivision 1.

Subp. 3. **County funds.** "County funds" means funds available to a county through county levies, state block grants under Minnesota Statutes, section 256E.06, federal block grants under Minnesota Statutes, section 256E.07, family preservation grants under Minnesota Statutes, section 256F.05, and state revenues distributed in lieu of property taxes or other revenue sharing.

Subp. 4. **Grant period.** "Grant period" means the time period in the grant application approved by the commissioner.

Approved by Revisor SGP

9535.1710 ELIGIBILITY TO RECEIVE GRANT.

Only county boards that submit and obtain the commissioner's approval for the grant application as required under parts 9535.1700 to 9535.1760 are eligible to receive grants under parts 9535.1700 to 9535.1760.

9535.1715 GRANT APPLICATION.

Subpart 1. **Application for grants.** A county board or two or more county boards jointly applying for a grant under part 9535.1710 shall submit to the commissioner a grant application that includes budget information for the use of the grant funds. The grant application must be completed in the manner prescribed on forms provided by the commissioner. Beginning with calendar years 1994 and 1995, the grant application must be part of the county board's biennial community social services plan, except that any grant application for a special project under part 9535.1730 need not be included in the county board's biennial community social services plan.

Subp. 2. **County board signature or copy of approving resolution.** As evidence of the county board's approval, the grant application submitted to the commissioner by the county board must be:

A. signed by the chair of the county board; or

B. accompanied by a copy of the county board resolution approving the submission.

If two or more county boards jointly apply for a grant, the chair of each county board participating in the joint application shall either sign the grant application or submit a copy of the county board's resolution approving the submission.

9535.1720 FUNDING CRITERIA.

The commissioner shall distribute grants to county boards whose grant applications meet the criteria in items A to E.

A. The grant application must be consistent with the respective mental health component of the county's community social services plan required by Minnesota Statutes, section

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256E.09, that is approved by the commissioner.

B. For grants to provide children's community-based mental health services, the grant application must describe how the county board is collaborating or will collaborate in the development, funding, and delivery of children's community-based mental health services with other agencies in the local system of care.

C. The grant application must comply with parts 9535.1700 to 9535.1760 and with Minnesota Statutes, sections 245.461 to 245.4888.

D. In the grant application submitted to the commissioner according to part 9535.1715, the county board shall agree that:

(1) it considered the advice of the local adult or children's mental health advisory council, or the adult or children's mental health subcommittee of the existing local mental health advisory council when developing the grant application;

(2) it will consider the advice of the local adult or children's mental health advisory council, or the adult or children's mental health subcommittee of the existing local mental health advisory council if the grant application is amended;

(3) services will be provided in accordance with the needs identified in each client's individual or family community support plan;

(4) where available, the following will be used instead of grant funds under parts 9535.1700 to 9535.1760:

(a) medical assistance, under Minnesota Statutes, section 256B.0625;

(b) general assistance medical care, under Minnesota Statutes, section 256D.03;

(c) the children's health plan, under Minnesota Statutes, section 256.936;

(d) the health right plan, under Minnesota Statutes, section 256.936;

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(e) private insurance and other third-party payors;

(f) client fees, under Minnesota Statutes, section 245.481; and

(g) other funds; and

(5) the cost per unit of service as determined by the commissioner will be comparable to the cost of similar services in the same or similar local trade area. "Local trade area" has the meaning given it in part 9505.0175, subpart 22.

E. The grant application must state that grant funds will only be used for:

(1) the services specified in Minnesota Statutes, section 245.4886, and as defined in Minnesota Statutes, section 245.4871; or

(2) the services specified in Minnesota Statutes, section 256E.12, and as defined in Minnesota Statutes, section 245.462; and

(3) other services that:

(a) have minor costs;

(b) are essential for the provision of services specified in Minnesota Statutes, section 245.4886 or 256E.12;

(c) cannot be paid for from the funds listed in item D, subitem (4); and

(d) are approved by the commissioner.

If the commissioner determines that a grant application merits funding but does not meet the criteria in parts 9535.1700 to 9535.1760, the commissioner shall specify the conditions the grant application must meet in order to receive the grant.

9535.1725 DISTRIBUTION FORMULA.

At or before the beginning of the grant period, the commissioner shall use the formulas in items A to F to distribute grants under parts 9535.1700 to 9535.1760 to county boards whose grant applications meet the requirements in parts 9535.1700 to 9535.1760.

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A. Within the limits of the appropriations under Minnesota Statutes, section 245.4886 or 256E.12, the commissioner shall allocate to each county board whose grant application is approved under part 9535.1720, the greater of the following:

(1) an annual allocation equal to the county's allocation for the preceding year, excluding any supplemental funds reallocated from other counties, plus a cost of living increase based on the legislative appropriation for that purpose;

(2) at least $22,000 annually for children with severe emotional disturbance, or at least $41,000 annually for adults with serious and persistent mental illness; or

(3) $2.25 per capita for children with severe emotional disturbance, or $2.10 per capita for adults with serious and persistent mental illness. Per capita must be based on the respective county adult or child population as determined by the most recent data of the state demographer.

B. The amount under item A, subitem (1), does not include special project funds under part 9535.1730 unless the commissioner determines a special project is more appropriately funded as part of the ongoing allocation under this part.

C. The commissioner shall increase the amounts in item A, subitems (2) and (3), to the extent funds are available, to enable more services to be provided as required by Minnesota Statutes, sections 245.461 to 245.4888.

D. If the appropriations under this part are decreased, then the per-county allocations in item A must be decreased in the same proportion as the decrease in the appropriation and must not be adjusted to reflect new data of the state demographer.

E. If the appropriations under this part remain the same as the appropriations in the preceding year, the per-county allocations in item A must be the same as those in the preceding year and must not be adjusted to reflect new data of the state demographer.

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by Revisor _____

F. Two or more county boards that apply jointly for a grant shall receive a multicounty grant equal to the sum of the individual county board allocations in items A to E. Actual utilization of grants by each participating county board may be different from the individual county board allocation in items A to E if the county boards demonstrate to the commissioner that the differences are based on differing service needs of each county.

9535.1730 FUNDING SPECIAL PROJECTS.

In addition to grants distributed under part 9535.1725, a county board may apply to the commissioner for grants for special projects designed to help children with severe emotional disturbance to function and remain with their families in the community and to help adults with serious and persistent mental illness to function and remain in the community. Special projects must provide at least one of the services under Minnesota Statutes, section 245.4886, subdivision 1, or 256E.12, subdivision 1, unless the legislature enacts appropriations under Minnesota Statutes, section 245.4886 or 256E.12, for a different service.

Within the limits of appropriations available, the commissioner may award grants to county boards for special projects the commissioner believes will help children with severe emotional disturbance to function and remain with their families in the community and will help adults with serious and persistent mental illness to function and remain in the community.

9535.1735 BUDGET REQUIREMENTS.

Subpart 1. **Estimated budget required.** When applying for a grant, the county board shall submit to the commissioner a budget covering all children's community-based mental health services or all adult community support and case management services to be provided by the county board, its contracting service providers, and any subcontracting service providers.

Additionally, the county board's budget must show the total

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by Revisor _____

projected revenue from the following sources:

A. grant funds under parts 9535.1700 to 9535.1760;

B. county funds;

C. medical assistance;

D. general assistance medical care;

E. client fees;

F. private insurance and other third-party payors;

G. other public agencies, including schools, colleges, health departments, and corrections;

H. other sources;

I. the children's health plan, under Minnesota Statutes, section 256.936; and

J. the health right plan, under Minnesota Statutes, section 256.936.

Subp. 2. **Submittal of contracting service provider budgets.** The county board shall submit to the commissioner the name, budgeted expenditures, budgeted revenues, and a list of services provided by the county board's contracting service providers or subcontracting service providers.

Subp. 3. **Provider contracts and subcontracts.** All contracts for services between a county board and a service provider, and all contracts for services between a contracting service provider and a subcontracting service provider must be in accordance with parts 9550.0010 to 9550.0092, governing the administration of community social services, and parts 9535.1700 to 9535.1760.

Subp. 4. **Joint applications.** When two or more county boards apply jointly for grants, they shall designate which county board will:

A. act as the host county to receive the grant; and

B. designate a contact person.

County boards applying jointly shall agree by resolution on the assignment of responsibilities in parts 9535.1700 to 9535.1760.

Subp. 5. **Matching funds required for grants for adult community support and case management services.** When applying

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for a grant for adult community support and case management services, the county board shall provide matching funds of at least ten percent of the budget estimated under subpart 1. For purposes of this subpart, "matching funds" means the revenue from the sources listed in subpart 1, items B to H.

9535.1740 PAYMENT TO COUNTY BOARD.

Subpart 1. **Fiscal reports.** The commissioner shall specify requirements for fiscal reporting under Minnesota Statutes, section 256.01, subdivision 2, clause (17).

Additionally, if the commissioner requests, the county board shall submit, by service provider, a year-end summary of the total expenditures and the total revenues by revenue sources listed in part 9535.1735, subpart 1.

Subp. 2. **Grant payments.** The commissioner shall make quarterly grant payments under this part to a county board whose grant application is approved under parts 9535.1710 to 9535.1760. The commissioner shall make an initial advance in an amount sufficient to cover the time period from the beginning of the grant period to the next scheduled payment. The commissioner shall make subsequent quarterly grant payments on a reimbursement basis for actual expenditures reported by a county board to the commissioner. The commissioner shall adjust the quarterly grant payments for anticipated spending patterns and additional income according to subpart 3.

Total payments for a grant period must not exceed the lesser of the following, made according to a budget approved under parts 9535.1710 to 9535.1760:

A. the grant award;

B. 90 percent of actual expenditures under Minnesota Statutes, section 256.12; or

C. 100 percent of actual expenditures under Minnesota Statutes, section 245.4886.

Subp. 3. **Disposition of additional income.** If a county board, its contracting service providers, or subcontracting service providers receive revenue for the services specified in

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the grant application approved by the commissioner exceeding the amount of revenue estimated in the budget, the county board shall:

A. use the additional income to provide additional children's community-based mental health services, or adult community support and case management services within the grant period in which the additional income is received;

B. use the additional income in place of the county board funds committed to services in the county board's approved budget, if the county board's total mental health expenditure, after the reduction in county funds, complies with the maintenance of effort provisions in Minnesota Statutes, section 245.48; or

C. notify the commissioner on an annual basis of the amount of actual excess revenue and request the commissioner to authorize the transfer of some or all of these excess funds to the subsequent grant period. The commissioner shall authorize the transfer or adjust the subsequent payment by an amount equal to the excess revenue.

9535.1745 TERMINATION AND REPAYMENT OF FUNDS.

If the commissioner determines that state grants for services allocated to the county board under Minnesota Statutes, section 245.4886 or 256E.12, are not being used as specified in a county board's approved grant application, the commissioner may terminate all or part of the grant funds and may require repayment according to Minnesota Statutes, section 245.483.

9535.1750 REALLOCATION OF GRANT FUNDS.

The commissioner may reallocate returned or unused grant funds to other eligible county boards as a supplemental allocation under parts 9535.1700 to 9535.1760, or for special projects under part 9535.1730. For purposes of this part, "unused grant funds" means:

A. grant funds not awarded to a county board; or

B. grant funds awarded to a county board but not used.

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9535.1755 BUDGET AMENDMENTS.

A county board that finds it necessary to amend the budget approved by the commissioner shall follow the procedures for amending the adult mental health component of a county's community social services plan under Minnesota Statutes, section 245.478, subdivision 9, or the children's mental health component of a county's community social services plan under Minnesota Statutes, section 245.4888, subdivision 9. The commissioner shall give approval if a county board demonstrates a need to change the services funded under Minnesota Statutes, section 245.4886 or 256E.12, based on an assessment of unmet needs of children with severe emotional disturbance and their families or adults with serious and persistent mental illness, and if all the requirements of Minnesota Statutes, sections 245.461 to 245.4888, and 256E.081 are met.

9535.1760 RECORDS.

Subpart 1. **Maintenance of financial records.** The county board, its contracting service providers, and any subcontracting service providers shall maintain financial records using generally accepted accounting principles so that:

A. expenditures for services funded under parts 9535.1700 to 9535.1760 can be easily compared to the county board's approved budget for those services;

B. all sources of income can be readily identified; and

C. documentation is available for all expenditures.

Budget records must include copies of all fiscal reports submitted to meet state or federal requirements.

Subp. 2. **Maintenance of service records and required reporting.** The county board, its contracting service providers, and any subcontracting service providers shall maintain data specified by the commissioner on services funded under parts 9535.1700 to 9535.1760, so the commissioner can determine the effectiveness of the services in achieving the purpose specified under Minnesota Statutes, sections 245.461 to 245.4888.

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The county board must submit periodic reports in the manner prescribed and on forms provided by the commissioner.

Subp. 3. **Availability and access.** The county board, its contracting service providers, and any subcontracting service providers shall upon request make all budget, expenditure, and service records pertaining to the provision of services funded under parts 9535.1700 to 9535.1760 available to the commissioner for audit purposes.

The commissioner shall be given access without prior notice to the physical plant and grounds of contracting service providers and subcontracting service providers and to documents and information relevant to services funded under parts 9535.1700 to 9535.1760. The commissioner shall be given access whenever the commissioner deems necessary. The requirements of Minnesota Statutes, chapter 13, pertaining to government data practices must be followed.

Additionally, the county board, its contracting service providers, and any subcontracting service providers shall allow the commissioner to make photocopies, photographs, and audio and videotape recordings at the commissioner's expense and in accordance with Minnesota Statutes, chapter 13.

Subp. 4. **Retention of records.** The county board, its contracting service providers, and any subcontracting service providers shall retain a copy of the records required under subpart 1 for three years plus the current year unless an audit requires a longer retention period. The records may be microfilmed at the end of the third year after the record was made. For purposes of this subpart, "copy of the records" means a photocopy or a computer-generated reproduction.

REPEALER. Minnesota Rules, parts 9535.0100; 9535.0200; 9535.0300; 9535.0400; 9535.0500; 9535.0600; 9535.0700; 9535.0800; 9535.0900; 9535.1000; 9535.1100; 9535.1200; 9535.1300; 9535.1400; 9535.1500; and 9535.1600, are repealed.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to State Grants for Mental Health Services

AGENCY: Department of Human Services

MINNESOTA RULES: Chapter 9535

The attached rules are approved for publication in the State Register

Sandra Glass-Sirany

Sandra Glass-Sirany
Assistant Revisor

Hubbard County Social Service Center

PARK RAPIDS, MINNESOTA 56470-1483

COURTHOUSE
TELEPHONE (218)732-1451

March 11, 1992

Stephanie Schwartz
Rules Division - DHS
Human Services Building
444 Lafayette Road
St. Paul, MN 55155

RE: RULE 14/78

Dear Ms. Schwartz:

Thanks for the meeting notes from the February 24th Rule 14/78 Advisory Committee. Since I was not able to attend that meeting, I have little to offer except for the following: I want to express my approval of the Department's efforts to not make the Rule overly prescriptive. Apparently there were some at the meeting who wanted to have more specific details. I commend you for not going in that direction. We need to be creative and inventive, not stifled by prescriptive requirements. This change in direction by the Department is much appreciated by me and other county directors.

Sincerely,

Daryl Bessler, Director
Hubbard County Social Services

DB:mj
CC: File

EXECUTIVE DIRECTOR
Jeremy Lane

MINNESOTA MENTAL HEALTH LAW PROJECT

DEPUTY DIRECTOR
Luther A. Granquist

MINNESOTA DISABILITY LAW CENTER

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March 16, 1992

Stephanie Schwartz
Department of Human Services, Rules Division
444 Lafayette Road
St. Paul, MN 55155-3816

RE: Rule 14/78

Dear Ms. Schwartz:

In reviewing the committee meeting notes from 2-4-92 and the proposed rule, I am writing to express only one comment.

The question was raised as to the applicability of "family preservation grants" with regard to 9535.1705 Subp. 3; I do believe those funds are applicable since they involve prevention of out of home placements, or efforts to reunify families. Certainly children eligible for community support services fall into that category.

That is the extent of our comments at this time.

Sincerely,
MINNESOTA MENTAL HEALTH LAW PROJECT

Marilyn Spensley,
Mental Health Advocate

cc: Patricia Siebert, Managing Attorney MMHLP

In the Matter of the Adoption of the Rule of the State Department of Human Services Governing Grants for Community-Based Mental Health Services for Children with Severe Emotional Disturbance and their Families, and Governing Grants for Community Support and Case Management Services for Adults with Serious and Persistent Mental Illness, Minnesota Rules, parts 9535.1700 to 9535.1760

DECLARATION OF COUNSEL

I, Cheryl Heilman, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0873.

Cheryl Heilman
Special Assistant
Attorney General

Dated: 8-31-92

State of Minnesota
Department of Human Services
Human Services Building
444 Lafayette Road
St. Paul, Minnesota 55155

July 15, 1992

Ms. Maryanne Hruby
Executive Director, LCRAR
55 State Office Building
St. Paul, Minnesota 55155

Dear Ms. Hruby:

Pursuant to Minnesota Statutes, section 14.131 or 14.23, enclosed is the proposed permanent rule relating to grants for community-based mental health services for children with severe emotional disturbance and their families, and governing grants for community support and case management services for adults with serious and persistent mental illness, Minnesota Rules, parts 9535.1700 to 9535.1760, and its statement of need and reasonableness.

If you have any questions on the statement of need and reasonableness, please do not hesitate to contact me at 297-4302.

Sincerely,

Stephanie L. Schwartz

Stephanie L. Schwartz
Rules Division

Encl. (2)